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2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 -----X
5 EDWARD CARTER, FRANK FIORILLO, KEVIN LAMM,
6 JOSEPH NOFI, and THOMAS SNYDER,
7 Plaintiffs,
8 -against- Case No. 07-Civ-1215
9 (SJF) (ETB)
10 INCORPORATED VILLAGE OF OCEAN BEACH; MAYOR
11 JOSEPH C. LOEFFLER, JR., individually and in
12 his official capacity; former mayor NATALIE
13 K. ROGERS, individually and in her official
14 capacity; OCEAN BEACH POLICE DEPARTMENT;
15 ACTING DEPUTY POLICE CHIEF GEORGE B. HESSE,
16 individually and in his official capacity;
17 SUFFOLK COUNTY; SUFFOLK COUNTY POLICE
18 DEPARTMENT; SUFFOLK COUNTY DEPARTMENT: OF
19 CIVIL SERVICE; and ALISON SANCHEZ,
20 individually and in her official capacity,
21 Defendants.
22 -----X

23 926 Reckson Plaza
24 Uniondale, New York

25 September 16, 2008
26 9:52 A.M.

27
28 VIDEOTAPE DEPOSITION of EDWARD
29 CARTER, taken pursuant to the Federal Rules
30 of Civil Procedure, and Notice, held at the
31 above-mentioned time and place before Edward
32 Leto, a Notary Public of the State of New
33 York.

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35

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2 A P P E A R A N C E S:

3 THOMPSON WIGDOR & GILLY LLP
4 Attorneys for Plaintiffs
5 85 Fifth Avenue
6 New York, New York 10003
7 BY: ANDREW S. GOODSTADT, ESQ.

8 RIVKIN RADLER LLP
9 Attorneys for Defendants
10 Incorporated Village of Ocean
11 Beach, Mayor Joseph C. Loeffler,
12 Jr., former Mayor Natalie K.
13 Rogers, and Ocean Beach Police
14 Department
15 926 Reckson Plaza
16 Uniondale, New York 11556
17 BY: KENNETH A. NOVIKOFF, ESQ.
18 - and -
19 MICHAEL WELCH, ESQ.

20 MARK, O'NEILL, O'BRIEN & COURTNEY, P.C.
21 Attorneys for Defendant Acting
22 Deputy Police Chief George B.
23 Hess
24 530 Saw Mill River Road
25 Elmsford, New York 10523
BY: KEVIN W. CONNOLLY, ESQ.

26 SUFFOLK COUNTY ATTORNEY'S OFFICE
27 Attorneys for Defendants Suffolk
28 County, Suffolk County Police
29 Department, Suffolk County
30 Department of Civil Service, and
31 Alison Sanchez
32 100 Veterans Memorial Highway
33 Hauppauge, New York 11788
34 BY: ARLENE ZWILLING, ESQ.

35 ALSO PRESENT
36 Albert Santana, Legal Video Specialist

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2 IT IS HEREBY STIPULATED AND
3 AGREED by and among counsel for the
4 respective parties hereto, that the filing,
5 sealing and certification of the within
6 deposition shall be and the same are hereby
7 waived;

8 IT IS FURTHER STIPULATED AND
9 AGREED that all objections, except to the
10 form of the question, shall be reserved to
11 the time of the trial;

12 IT IS FURTHER STIPULATED AND
13 AGREED that the within deposition may be
14 signed before any Notary Public with the
15 same force and effect as if signed and sworn
16 to by the Court.

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E. Carter

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THE VIDEOGRAPHER: This is tape
3 number one of the videotape deposition
4 of Edward Carter in the matter of
5 Edward Carter, et al., Plaintiffs,
6 versus Incorporated Village of Ocean
7 Beach, et al., Defendants, in the
8 United States District Court, Eastern
9 District of New York, case number
10 07-civ-1215(SJF)(ETB), on September 16,
11 2008 at approximately 9:52 a.m.

12

My name is Albert Santana from
13 the firm of Precise Court Reporting and
14 I'm the legal video specialist. The
15 court reporter is Ed Leto in
16 association with Precise Court
17 Reporting. For the record, will
18 counsel please introduce themselves.

19

MR. GOODSTADT: Andrew
20 Goodstadt, Thompson Wigdor & Gilly, on
21 behalf of the Plaintiffs.

22

MR. NOVIKOFF: Ken Novikoff and
23 Michael Welch, Rivkin Radler, on behalf
24 of all Village Defendants and the
25 individual Defendants, Loeffler and

1 E. Carter

2 Rogers.

3 MS. ZWILLING: Arlene Zwilling
4 for Christine Malafi, Suffolk County
5 Attorney, representing the Suffolk
6 County Defendants.

7 MR. NOVIKOFF: And just for the
8 record, counsel for Mr. Hesse is not
9 here yet. He's indicated that he is
10 going to be delayed. We noticed this
11 up for 9:30, so we're going to proceed
12 with the deposition now, which is
13 approximately five to 10:00, right.

14 THE VIDEOGRAPHER: Now will the
15 court reporter please swear the
16 witness.

17 E D W A R D C A R T E R, having first
18 been duly sworn by a Notary Public of the
19 State of New York, was examined and
20 testified as follows:

21 THE COURT REPORTER: Please
22 state your name for the record.

23 THE WITNESS: Edward Carter.

24 THE COURT REPORTER: Please
25 state your address.

1 E. Carter

2 THE WITNESS: 55 Kansas

3 Avenue, Bay Shore, New York 11706.

4 MR. NOVIKOFF: Mr. Goodstadt,
5 regular stipulations?

6 MR. GOODSTADT: Yes. Federal
7 rules govern, local rules govern. He's
8 just going to reserve his right to
9 review and sign.

10 MR. NOVIKOFF: Just like the
11 last deposition.

12 MR. GOODSTADT: Yes.

13 EXAMINATION BY

14 MR. NOVIKOFF:

15 MR. NOVIKOFF: Good morning,
16 sir. I am Ken Novikoff and I'm going
17 to be asking you a series of questions
18 today, and if you don't understand my
19 questions, then I would invite you to
20 tell me and I will try to rephrase them
21 in such a way that you better
22 understand them.

23 You are free to talk to your
24 counsel at any time as many times as
25 you'd like. The only thing I would

1 E. Carter

2 request is that while a question is
3 pending, you answer the question before
4 you speak with your counsel.

5 Obviously, if your counsel instructs
6 you not to answer a question, then you
7 do what you need to do.

8 Q. Have you spoken with Mr. Nofi --
9 well, withdrawn. Are you aware that
10 Mr. Nofi has been deposed in this case?

11 A. Yes.

12 Q. Did you speak with Mr. Nofi after
13 his deposition?

14 A. No.

15 Q. Did you speak with Mr. Nofi
16 before his deposition specifically
17 concerning his deposition?

18 A. No.

19 Q. Have you spoken to the -- to any
20 of the other Plaintiffs in this case
21 subsequent to Mr. Nofi's deposition?

22 A. With my attorney, yes.

23 MR. NOVIKOFF: Yes. Again,
24 let's also -- if I ask you questions
25 concerning communications you may have

1 E. Carter

2 had with the other Plaintiffs that were
3 in the presence of your counsel, then
4 just advise me of that and I'm sure
5 your counsel will tell you not to
6 answer. Likewise, if any of my
7 questions seek information concerning
8 what you and your counsel said, I'm
9 sure your counsel will object.

10 Q. Outside the presence of your
11 counsel, have you spoken with any of the
12 Plaintiffs subsequent to the Nofi
13 deposition?

14 A. When we first filed the lawsuit,
15 yes.

16 Q. Let me rephrase. Nofi was
17 deposed last week.

18 A. Yes.

19 Q. You're aware of that. After,
20 between that date of his deposition and
21 today, have you spoken with any of the other
22 Plaintiffs?

23 A. Yes.

24 Q. Whom -- with whom have you
25 spoken?

1 E. Carter

2 A. With Kevin Lamm.

3 Q. And when did you speak with Kevin
4 Lamm?

5 A. Prior to -- it would be Sunday.

6 (Mr. Connolly entered the room.)

7 Q. And was that in the presence of
8 your attorney?

9 A. No.

10 Q. Was it by phone?

11 A. Yes.

12 Q. What was the sum and substance of
13 the conversation?

14 A. I told him I was going for a
15 deposition on Tuesday and that we were
16 notified that several depositions were
17 canceled next week and the following weeks,
18 which we had taken days off for.

19 Q. Okay. Well, what deposition --
20 what days off did you take?

21 A. I was going to take off -- well,
22 I didn't -- I took off for tomorrow which is
23 Wednesday, and I was going to put in for a
24 couple days next week.

25 Q. Why did you decide to take off

1 E. Carter

2 for tomorrow?

3 A. There was a deposition scheduled
4 for tomorrow.

5 Q. Of whom?

6 A. With Mr. Paridiso.

7 Q. And why did you think it was
8 important for you to be at Mr. Paridiso's
9 deposition?

10 A. With my case being as important
11 as it is to me, I think it's important for
12 me to make as many depositions as I can.

13 Q. Fair enough. And what did
14 Mr. Lamm say to you, if anything, on Sunday
15 after you told him you were going to be
16 deposed and that some of the depositions had
17 been canceled?

18 A. He asked me if I knew where the
19 place was, which I was a little unsure of,
20 and I told him that -- I asked him if he was
21 going to go on Wednesday, and he said he
22 wasn't sure if he could get off from work or
23 not.

24 Q. Was that the extent of your
25 conversation with Mr. Lamm?

1 E. Carter

2 A. Basically, yes. From what I
3 recall at this time, yes.

4 Q. Did you talk about any of the
5 substantive allegations in the complaint
6 with Mr. Lamm on Sunday?

7 A. No.

8 Q. Prior to Mr. Nofi's deposition
9 last week, did you speak with any of the
10 other Plaintiffs concerning Nofi's
11 deposition?

12 A. Just the other told -- we were
13 told we were going for depositions. Just
14 the dates.

15 Q. Okay. You didn't speak with the
16 other Plaintiffs concerning --

17 MR. GOODSTADT: Just -- just so
18 when you say you were told that you
19 were going for dates, don't disclose
20 any communications that came from us.
21 He's talking about only between you and
22 the other Plaintiffs.

23 Q. Other than -- putting aside what
24 you may or may not have spoken to counsel
25 about concerning your deposition, have you

1 E. Carter

2 spoken to anybody else concerning the fact
3 that you were being deposed today?

4 A. No.

5 Q. With whom are you presently
6 employed, if anybody?

7 A. Township of Islip.

8 Q. And what job do you presently
9 hold with the Township of Islip?

10 A. Civil service job as a park
11 ranger two, which is a sergeant's position.

12 Q. Are you presently employed by any
13 other entity or individual?

14 A. No.

15 Q. In year 2008, have you sought any
16 employment from any entity or individual?

17 A. No.

18 Q. In 2007, did you seek employment
19 with any entity or individual?

20 A. No. I couldn't for my reason for
21 termination.

22 MO MR. NOVIKOFF: Motion to strike
23 as nonresponsive.

24 Q. My question was a yes or no.

25 A. No.

1 E. Carter

2 Q. So let me rephrase the question.

3 MR. GOODSTADT: Just so I don't
4 have to address your motion to strike
5 each time, we --

6 MR. NOVIKOFF: I would --

7 MR. GOODSTADT: -- oppose any
8 motion to strike.

9 MR. NOVIKOFF: I would
10 stipulate that any time I make a motion
11 to strike, you are going to oppose it
12 and we'll take that up with the court
13 at the appropriate time.

14 MR. GOODSTADT: Great.

15 MR. NOVIKOFF: Okay.

16 Q. Sir, in 2007, did you seek any
17 employment with any entity or individual?

18 A. No.

19 Q. Sir, in 2006, did you seek
20 employment with any entity or individual?

21 A. Yes. I tried to seek employment
22 with the Suffolk County Park Police.
23 Seasonally.

24 Q. When in 2006 did you seek
25 employment with the Suffolk County Park

1 E. Carter

2 Police?

3 A. The phone call was made May,
4 early May of 2006 to the Smith Haven
5 barracks in I believe it's Mastic or
6 Shirley.

7 Q. I'm sorry, what was the end?

8 A. Mastic or Shirley. The location
9 of it.

10 Q. Okay. Other than the Suffolk
11 County Park Police, did you seek any other
12 employment in 2006?

13 A. Yes. My park ranger three
14 position with the Town of Islip, which is a
15 civil service test, promotional test. I
16 applied for it January of 2006. Took the
17 test. The test results came out September
18 2006.

19 Q. So the test results came out
20 after you were advised that you were no
21 longer working for Ocean Beach?

22 A. Yes.

23 Q. Okay. And that would have been
24 instead of seeking new employment, you were
25 seeking a promotion; is that fair?

1 E. Carter

2 A. Furthering my career with more
3 money. Yes.

4 Q. It would be a promotion as
5 opposed to a new job for a new employer?

6 A. It is a new job with the same
7 employer, yes.

8 Q. Okay. So other than the test
9 that you took for this new job with the same
10 employer and other than the Suffolk County
11 Park Police application, did you try to find
12 a job with any other entity or employer in
13 2006?

14 A. I researched stuff and I saw
15 there were several polygraphs that I
16 couldn't apply for them, so no.

17 Q. When you say there were
18 "several" -- I'm not asking why you couldn't
19 apply for them, I'm only now asking you
20 about your comment about there were several
21 polygraphs. So my question is, what did you
22 mean by your answer that "there were several
23 polygraphs"?

24 A. I went on websites for armed
25 security guard, armed carriers and I saw the

1 E. Carter

2 requirements, and it came up with a
3 polygraph. I looked into doing stock at
4 Toys R Us, I had to take a polygraph.

5 Q. Now why was taking a polygraph a
6 problem?

7 A. The problem was when George Hesse
8 fired me, terminated me from Ocean Beach, he
9 originally told me I was let go for
10 directives that he posted in the fall.

11 Q. Okay.

12 A. He further went on later on at a
13 meeting on April 2, when I was let go, that
14 I was going to wear a wire for the District
15 Attorney's office in reference to a Gilbert
16 incident, a businessman that was beat up
17 while at Ocean Beach.

18 Q. Okay.

19 A. Subsequent phone call to Hesse
20 later on winds up being he tells me -- there
21 was a blog, the Long Island Politics, that I
22 did official misconduct, falsified paperwork
23 for a Halloween incident. Arnold Hardman
24 calls me, reconfirms saying, "Carter" --
25 right after I was let go -- "you got scooped

1 E. Carter
2 up. I think you got scooped up in the
3 Halloween incident," which I wasn't working
4 then. So there were three reasons at that
5 point why he let me go. The fourth reason
6 he gave me is I was sleeping. There was no
7 way I could answer a polygraph why I was let
8 go.

9 Q. But, sir, a polygraph -- to your
10 knowledge, isn't it true that a polygraph is
11 a device wherein it is asking you questions
12 to see if your responses were less than
13 truthful?

14 MR. GOODSTADT: Objection.

15 A. Yes.

16 Q. You have that understanding as to
17 what a polygraph is, correct?

18 A. Yes. Also, the question why were
19 you terminated or fired from Ocean Beach I
20 couldn't answer.

21 Q. Well, that doesn't mean that you
22 would be lying, would it?

23 MR. GOODSTADT: Objection.

24 Q. Were you lying in response to
25 when -- the last answer that you gave with

1 E. Carter

2 regard to the four reasons that you say that
3 Mr. Hesse says that he gave you for being
4 fired, were you lying?

5 A. No.

6 Q. Okay. So if someone asked you on
7 a polygraph question exam "why were you
8 fired" and you answered "I don't know,"
9 would that be a truthful response?

10 MR. GOODSTADT: Objection.

11 Q. As you sit here today? You can
12 answer.

13 A. I'm sorry.

14 MR. GOODSTADT: You can answer.

15 Q. You can answer the question.

16 A. It would be truthful.

17 Q. And if someone asked you during a
18 polygraph exam what were the reasons that
19 Mr. Hesse gave you for being fired as you
20 say you were on April 2, you would have
21 given the same answers you just gave me,
22 correct?

23 MR. GOODSTADT: Objection.

24 A. No. They have yes and no
25 questions and they would -- just the

1 E. Carter

2 hearing, again, why I was let go, my blood
3 pressure would be raised, which would give
4 off on the polygraph, and I would -- I would
5 definitely not pass a polygraph, and Hesse
6 was aware of that and I made him aware of
7 that.

8 Q. When did you make Mr. Hesse aware
9 that your blood pressure would be raised
10 during a polygraph exam?

11 A. I made him aware -- I didn't make
12 him aware of that.

13 Q. Okay. When did you make
14 Mr. Hesse aware that you would fail a
15 polygraph test because of the events that
16 took place on April 2, 2006?

17 MR. GOODSTADT: Objection.

18 A. I called -- I called him May.

19 Q. Just answer me when.

20 A. In May.

21 Q. Okay. How?

22 A. By phone.

23 Q. And what did you say to Mr. Hesse
24 concerning your concerns that you would
25 be -- you would fail a polygraph test?

1 E. Carter

2 A. I told him I would have to take a
3 polygraph for the Suffolk County Park Police
4 and a background, and I needed to know why I
5 was let go.

6 Q. Okay. Sir, in that conversation,
7 did you tell Mr. Hesse that you would fail a
8 polygraph test because of the events
9 concerning April 2, 2006?

10 MR. GOODSTADT: Objection.

11 Q. Yes or no?

12 A. I'm sure I expressed it in the
13 way I asked him, yes.

14 Q. I don't understand what that
15 means, sir. What do you mean you expressed
16 it in a way you asked him? My question is
17 simple, did you advise Mr. Hesse
18 specifically "I will fail a polygraph test
19 because of the events surrounding April 2,
20 2006"?

21 MR. GOODSTADT: Objection.

22 A. No.

23 Q. Now since you brought it up, I'm
24 going to ask you this. What reasons did
25 George Hesse give you at any point in time

1 E. Carter

2 for why you were no longer going to be
3 working for Ocean Beach? I don't want to
4 know the circumstances surrounding the
5 conversation, I just want to know the
6 specific reasons that George Hesse
7 communicated to you directly.

8 A. The original one at April 2 was
9 he had to let someone go for the directives
10 he hung up in the fall and he chose me.

11 Q. Okay. Next one?

12 A. Later on, during a phone call and
13 an email, May of 2006, he told me for
14 sleeping.

15 Q. Okay. So he communicated to you
16 two reasons why he let you go. One was for
17 what you labeled directives, and two is
18 because you were sleeping?

19 A. Yes.

20 Q. Any other reasons that he
21 communicated directly to you concerning why
22 he made the decision not to rehire you for
23 the 2006 summer season?

24 MR. GOODSTADT: Objection.

25 MR. NOVIKOFF: Well, I'll

1 E. Carter

2 withdraw the question.

3 Q. Other than the two reasons you
4 just gave me, are there any other reasons
5 that Mr. Hesse communicated to you directly
6 with regard to why you were no longer
7 working for Ocean Beach after April 2, 2006?

8 A. No.

9 MR. NOVIKOFF: I'm going to ask
10 the court reporter to mark the
11 following documents as Carter-1.

12 (Notice of Claim was marked as
13 Carter Exhibit-1 for identification;
14 9/16/08, E.L.)

15 Q. Sir, I'm going to show you what's
16 been marked as Carter-1 and ask you to
17 review it, and please advise me when you're
18 done reviewing it.

19 A. (Reviewing). I'm done, sir.

20 Q. And do you recognize this
21 document?

22 A. Yes, sir.

23 Q. And what is this document?

24 A. It's a Notice of Claim.

25 Q. And are you aware what a Notice

1 E. Carter

2 of Claim is?

3 A. I'm a little familiar with it,
4 sir.

5 Q. What's your understanding what a
6 Notice of Claim is?

7 A. My understanding is a Notice of
8 Claim must be filed within a specific period
9 of time after a wrong doing is done for
10 court or legal proceedings to proceed.

11 Q. And let's turn to the third page.
12 It says -- there's a signature, do you see
13 that?

14 A. Yes.

15 Q. And it's "respectfully yours,
16 Thompson Wigdor & Gilly, LLP," do you see
17 that?

18 A. Yes.

19 Q. Was that your lawyer -- well, was
20 that the law firm representing you at the
21 date that the Notice of Claim was filed?

22 A. Yes.

23 Q. And you see the date "June 30,
24 2006"?

25 A. Yes.

1 E. Carter

2 Q. Did you review the Notice of
3 Claim before you -- well, did you authorize
4 your lawyers to file the Notice of Claim on
5 your behalf?

6 A. Yes.

7 Q. And did you review the Notice of
8 Claim prior to it being filed by your
9 lawyers?

10 A. Yes.

11 Q. On how many occasions did you
12 review the Notice of Claim prior to it being
13 filed?

14 A. One time.

15 Q. And did you review the Notice of
16 Claim for purposes of accuracy?

17 A. Yes.

18 Q. And would it be correct to say
19 that if you found that there was anything
20 that was inaccurate in there, you would have
21 notified your lawyers about that?

22 MR. GOODSTADT: Objection.

23 A. Yes.

24 RL Q. And prior to authorizing your
25 lawyers to file the Notice of Claim, did you

1 E. Carter

2 advise them that there was anything
3 inaccurate?

4 DI MR. GOODSTADT: Objection. I'm
5 going to instruct the witness not to
6 respond to the question as it violates
7 attorney/client communication.

8 MR. NOVIKOFF: I don't think it
9 does, but let's mark that for a ruling.

10 MR. GOODSTADT: Okay.

11 Q. When you read this Notice of
12 Claim, was there anything inaccurate that
13 you saw?

14 A. No.

15 Q. And when I say "this Notice of
16 Claim," I'm talking about what's been marked
17 as Carter-1?

18 A. No.

19 Q. Okay. Let's look at the "nature
20 of the claim" section. Four lines from the
21 bottom, five lines from the bottom, in the
22 middle it says "and otherwise," do you see
23 it?

24 A. Yes.

25 Q. And just for the record, there is

1 E. Carter
2 underlining on the Notice of Claim. I don't
3 know who put that there, but you --
4 withdrawn. I didn't put that there, so.
5 "And otherwise wrongful conduct and
6 practices engaged in by numerous senior
7 ranking officers, including but not limited
8 to Sergeant George Hesse," do you see that?

9 A. Yes.

10 Q. Who are the other senior ranking
11 officers that you refer to in this Notice of
12 Claim?

13 A. The officers that had more time
14 than me, which would be Ken Bockelman, Tyree
15 Bacon.

16 Q. Anybody else?

17 A. Those are the examples I recall
18 at this time.

19 Q. So your understanding of senior
20 ranking officers means that they have more
21 experience than you?

22 A. Yes.

23 Q. At Ocean Beach?

24 A. Yes.

25 Q. How do you know Ty Bacon has more

1 E. Carter

2 experience than you?

3 A. He started there prior to my
4 starting in 1991.

5 Q. And was he working there
6 continuously, to your knowledge?

7 A. To my knowledge, no.

8 Q. Do you know how many days he
9 worked since 1991?

10 A. No.

11 Q. So how do you know that he worked
12 more days from the commencement of his
13 employment with Ocean Beach than you
14 worked -- than you worked?

15 MR. GOODSTADT: Objection.

16 A. He was --

17 Q. I just want to know --

18 A. He was there more than a year or
19 two prior to me.

20 Q. But he was seasonal, correct?

21 A. Yes.

22 Q. You're seasonal?

23 A. Yes.

24 Q. That means you're not working
25 five days a week, correct?

1 E. Carter

2 MR. GOODSTADT: Objection.

3 MR. NOVIKOFF: Well, withdrawn.

4 Q. What's your understanding of the
5 word "seasonal"?

6 A. Seasonal is from May to
7 September.

8 Q. Right. And you're working
9 shifts, correct?

10 A. Yes.

11 Q. Less than 40 hours a week on
12 average?

13 A. Myself, yes.

14 Q. Yes. How about Ty Bacon?

15 A. He worked quite a few hours more.

16 Q. How do you know?

17 A. Because the schedules.

18 Q. You saw the schedules since 1991
19 of when Ty Bacon worked?

20 A. He was on the same schedule as
21 me, yes.

22 Q. My question is, you've looked --
23 you know as you sit here today how many
24 days -- how many shifts Ty Bacon worked
25 since 1991?

1 E. Carter

2 A. No.

3 MR. GOODSTADT: Objection.

4 That wasn't the question.

5 Q. Sir, would you agree with me that
6 you're just speculating as to whether or not
7 Mr. Bacon worked more hours at Ocean Beach
8 than you in your respective employment
9 histories?

10 MR. GOODSTADT: Objection.

11 A. It's my belief he did.

12 Q. And it's your belief based upon
13 what?

14 A. Based upon the number of times I
15 seen him there.

16 Q. Did he work nights?

17 A. Yes.

18 Q. Did he work the same nights you
19 worked?

20 A. Not always.

21 Q. And if you weren't at Ocean Beach
22 during a particular night, you don't know
23 whether he was working there that night,
24 correct?

25 MR. GOODSTADT: Objection.

1 E. Carter

2 A. Without looking back through the
3 blotter book, no.

4 Q. Who's the other guy?

5 A. Kenneth Bockelman.

6 Q. Okay. And how do you know he was
7 more senior than you in terms of experience
8 at Ocean Beach?

9 A. He worked 40 hours a week, and in
10 the off season, for many more hours than I
11 did.

12 Q. How do you know?

13 A. Because of the schedule.

14 Q. And when did he start working for
15 Ocean Beach?

16 A. I don't recall the exact date.

17 Q. You started working for Ocean
18 Beach in 1991, correct?

19 A. Yes.

20 Q. And then there was a period of
21 time that you stopped, right?

22 A. Yes.

23 Q. Was Mr. Bockelman there in 1991?

24 A. No.

25 Q. Was Mr. Bockelman there on the

1 E. Carter

2 last day of your employment during your
3 first tenure with Ocean Beach?

4 A. No.

5 Q. When did you recommence your
6 employment with Ocean Beach after your first
7 go around?

8 A. 2001.

9 Q. Was Mr. Bockelman there in 2001?

10 A. Yes.

11 Q. Do you know how long prior to
12 2001 Mr. Bockelman first showed up?

13 A. Only from what he said. He
14 graduated the academy couple years earlier.

15 Q. But that doesn't necessarily mean
16 he was working for Ocean Beach, correct?

17 A. He went right to Ocean Beach.

18 Q. Oh, he went right to Ocean Beach.
19 And did he work nights as well?

20 A. Yes.

21 Q. What unlawful conduct did
22 Mr. Bacon engage in, as you refer to in
23 here?

24 A. Drinking on duty.

25 Q. Okay. And what tortious conduct

1 E. Carter

2 did Mr. Bacon engage in as you refer to in
3 here?

4 MR. GOODSTADT: Objection.

5 MR. NOVIKOFF: I'm just asking
6 him.

7 MR. GOODSTADT: Calls for a
8 legal conclusion.

9 MR. NOVIKOFF: Okay. But this
10 is his document, so.

11 Q. What tortious conduct did
12 Mr. Bacon engage in?

13 MR. GOODSTADT: Same objection.

14 Q. You can answer.

15 A. At this time, I don't recall any.

16 Q. What wrongful conduct and
17 practices did Mr. Bacon engage in as you
18 refer to in here?

19 MR. GOODSTADT: Objection.

20 A. The drinking on duty.

21 Q. Okay. Anything else?

22 A. That I'm aware at this time, no.

23 Q. So are you alleging here that you
24 were unlawfully terminated because you did
25 not participate with Mr. Bacon in drinking

1 E. Carter

2 off duty?

3 A. Drinking with Mr. Bacon and the
4 other officers, yes.

5 Q. And Mr. Bacon fired you?

6 A. Mr. Hesse fired me.

7 Q. Okay. So Mr. Bacon didn't have
8 anything to do with you being fired,
9 correct?

10 A. Directly that I know of, no.

11 Q. He had no authority to hire
12 you -- to fire you, to the best of your
13 knowledge, correct?

14 A. Correct.

15 Q. He was the same rank as you?

16 A. Correct.

17 Q. Okay. And Bachman, what unlawful
18 conduct did Bachman participate in as you
19 allege here?

20 A. He also drinking on duty.

21 MR. GOODSTADT: Just so the
22 record is clear, I think it's
23 "Bockelman."

24 MR. NOVIKOFF: "Bockelman,"
25 okay.

1 E. Carter

2 Q. And what about tortious conduct,
3 what tortious conduct did Mr. Bockelman
4 engage in?

5 MR. GOODSTADT: Objection.

6 Q. Okay. You can answer.

7 A. None that I know of at this time.

8 Q. Is there anything in your
9 possession, custody or control that would
10 refresh your recollection?

11 A. No.

12 Q. What wrongful conduct and
13 practices did Bockelman engage in as you
14 refer to here?

15 MR. GOODSTADT: Objection.

16 A. The drinking on duty.

17 Q. Okay. Anything else?

18 A. With myself, no.

19 Q. Right. And my questions, unless
20 I ask you differently, are just as it
21 relates to you. Was Bockelman the same rank
22 as you?

23 A. Yes.

24 Q. He didn't have any authority to
25 fire you, to your knowledge, did he?

1 E. Carter

2 A. Not that I know of, no.

3 Q. Did he -- to your knowledge, did
4 he have anything to do directly with you
5 being fired?

6 A. Not that I know of.

7 Q. Any other officers that you can
8 refer -- that you can advise us of that you
9 consider to be senior ranking officers as
10 you used that term in this Notice of Claim?

11 A. No, sir.

12 Q. Okay. And when did you first
13 find out -- well, when did you first learn
14 that Bacon was drinking off duty?

15 MR. GOODSTADT: Objection.

16 A. Off duty?

17 MR. NOVIKOFF: Well, withdrawn.

18 Q. Drinking on duty as you say was
19 an unlawful conduct?

20 A. I saw it in 2003.

21 Q. And did you complain to anybody
22 about Mr. Bacon now specifically?

23 A. Mr. Bacon, yes.

24 Q. Who did you complain to?

25 A. George Hesse.

1 E. Carter

2 Q. Anybody else in 2003 now?

3 A. There were other officers
4 drinking in the station along with
5 Mr. Bacon, yes.

6 Q. I'm only concerned now about
7 Mr. Bacon.

8 A. No.

9 Q. Did you complain to anyone else
10 in 2003, other than Mr. Hesse?

11 A. No.

12 Q. Did you complain to Mr. Hesse
13 about Mr. Bacon drinking on duty in 2004?

14 A. Yes.

15 Q. How many times in 2003 did you
16 complain to Mr. Hesse about Mr. Bacon
17 drinking on duty?

18 A. Mr. Bacon would have been
19 approximately three times.

20 Q. Do you recall when in 2003?

21 A. Summer of 2003.

22 Q. Three times during the summer of
23 2003; is that correct?

24 A. That I witnessed, yes.

25 Q. And how about -- no, not that

1 E. Carter

2 you witnessed. That you complained to
3 Mr. Hesse about.

4 A. Yes.

5 Q. Three times?

6 A. (Indicating).

7 Q. So would it be -- yes?

8 A. Yes.

9 Q. So would it be fair based upon
10 your testimony -- I'm sorry, would it be a
11 fair characterization of your testimony that
12 every time that you saw Mr. Bacon drink in
13 2003 while on duty, you complained to
14 Mr. Hesse about it?

15 A. Yes.

16 Q. Okay. And the first time that
17 you complained, what did you say to
18 Mr. Hesse?

19 A. I said, "George, this is
20 bullshit. I got to clean up all your guys'
21 beers, rocket fuel, empty cups with Bacon,
22 you and the other guys drinking." And
23 George just said, "Shut up and do it."

24 Q. He said shut up and what?

25 A. Do it.

1 E. Carter

2 Q. So you weren't necessarily
3 complaining about Mr. Bacon drinking, you
4 were complaining about the fact that you had
5 to clean up his mess and other people's
6 mess, correct?

7 MR. GOODSTADT: Objection.

8 A. No. I was complaining that the
9 officers were drinking in the station and
10 leaving the mess.

11 Q. But what specifically did you say
12 to Mr. Hesse when you say you complained to
13 him that first time?

14 A. "George, this is bullshit. You
15 guys are drinking in the station and leaving
16 a mess. Beer cans, rocket fuels, cups, and
17 why do I have to clean it up?"

18 Q. Okay. So would it be fair to say
19 that part of your complaint was the fact
20 that you had to clean up the other officers
21 that you claim were drinking while on duty
22 in the station?

23 A. Part of my claim, yes.

24 Q. Okay. Part of your complaint?

25 A. Yes.

1 E. Carter

2 Q. Okay. The second time in 2003
3 that you complained, what did you say to
4 Mr. Hesse?

5 A. Basically the same thing.

6 "George, what's going on?" "You know, why
7 do I have to clean up this stuff again?"

8 Q. Okay. Third time in 2003, what
9 was the sum and substance of your complaint
10 to Mr. Hesse?

11 A. That the rocket fuels were
12 dropped at the front desk where I was.

13 Q. And that you had to clean it up?

14 A. No. That the guys were coming in
15 picking them up and I was in the middle of
16 doing stuff. Paperwork and stuff.

17 Q. So what was your complaint?

18 A. My complaint was the alcohol was
19 brought in the station. It shouldn't have
20 been there.

21 Q. Okay. So it really had nothing
22 to do with the fact that you were doing
23 paperwork at the desk?

24 A. It interfered with myself doing
25 the paperwork, yes.

1 E. Carter

2 Q. Got it. And the second time that
3 you complained to Mr. Hesse, what was
4 Mr. Hesse's response?

5 A. Again, just laughed it off and
6 walked away.

7 Q. Third time, what was Mr. Hesse's
8 response?

9 A. He gave me a look and said, "Just
10 cut the shit," and walked out.

11 Q. He said to you "cut the shit"?

12 A. Yup.

13 Q. Now was Mr. Hesse the chief of
14 police at the time in 2003, to your
15 knowledge?

16 A. No.

17 Q. Who was?

18 A. Chief Ed Paridiso.

19 Q. Did you -- when -- well, how
20 would you characterize Mr. Hesse's response
21 to your first complaint in 2003?

22 A. Normal George Hesse response.

23 Q. Well, did he --

24 MR. CONNOLLY: Objection.

25 MR. NOVIKOFF: What's that?

1 E. Carter

2 MR. CONNOLLY: Objection.

3 MR. NOVIKOFF: You objected.

4 Q. Did you -- again, what did

5 Mr. Hesse say to you when you complained to
6 him the first time in 2003?

7 A. "Cut the bullshit."

8 Q. Now would you agree with me that
9 a fair interpretation of Mr. Hesse's
10 response was that he was not going to do
11 anything about your complaint?

12 MR. GOODSTADT: Objection.

13 Q. Your first complaint?

14 MR. GOODSTADT: Objection.

15 A. Yes.

16 Q. Okay. Did you take -- did you
17 take your first complaint to Mr. Paridiso?

18 A. No.

19 Q. Did you take your complaint to
20 Mayor Rogers at the time?

21 A. No.

22 Q. Did you take -- the first time
23 that you complained to Mr. Hesse and he did
24 not give you a favorable response, did you
25 take your complaint to any trustee?

1 E. Carter

2 A. No.

3 Q. Second time in 2003, what did
4 Mr. Hesse say to you when you complained?

5 A. He said, "Just clean it up."

6 Q. Okay. Would you agree with me
7 that that wasn't a favorable response on
8 Mr. Hesse's part to your complaint?

9 MR. GOODSTADT: Objection.

10 A. Yes.

11 Q. Did you take that second
12 complaint to Mr. Paridiso?

13 A. No.

14 Q. Did you take that second
15 complaint to Mayor Rogers?

16 A. No.

17 Q. Did you take that second
18 complaint to any trustee of the village?

19 A. No.

20 Q. Third time that Mr. -- that you
21 complained to Mr. Hesse I believe you said
22 that he said "cut the bullshit," right?

23 A. Yes.

24 Q. Again, would you agree with me
25 that that was not a favorable response to

1 E. Carter

2 your complaint?

3 MR. GOODSTADT: Objection.

4 A. Yes.

5 Q. Did you take that complaint to
6 Mr. Paridiso?

7 A. No.

8 Q. Did you take that complaint to
9 Mayor Rogers?

10 A. No.

11 Q. Did you take that complaint to
12 any trustee member?

13 A. No.

14 Q. At any point in time in 2003, did
15 you complain to Ed Paridiso about the fact
16 that there were officers, to your
17 recollection, to your belief, drinking off
18 duty in the police station?

19 MR. GOODSTADT: Objection.

20 MR. NOVIKOFF: I'm sorry. I'm
21 sorry. Withdraw the question.

22 Q. At any point in time in 2003, did
23 you complain to Ed Paridiso that there were
24 officers on duty drinking?

25 A. No.

1 E. Carter

2 Q. Same question with regard to
3 Mayor Rogers?

4 A. No.

5 Q. Same question with regard to any
6 trustee at the time?

7 A. No.

8 Q. In 2003, did you communicate with
9 Ed Paridiso in any manner, shape or form
10 that there were officers drinking on duty?

11 A. No.

12 Q. Same question as to Mayor Rogers?

13 A. No.

14 Q. Same question as to the trustees?

15 A. No.

16 Q. Same question as to specifically
17 Mayor Loeffler -- I mean Mr. Loeffler?

18 A. No.

19 Q. Okay. 2004 now --

20 MR. GOODSTADT: Just so we're
21 clear, you're talking about Joe
22 Loeffler?

23 MR. NOVIKOFF: The Defendant in
24 this case, yes. And unless I otherwise
25 indicate, if I say "Mr. Loeffler," I'm

1 E. Carter

2 referring to the present mayor and the
3 person who's now a Defendant in this
4 lawsuit.

5 Q. How many times did you complain
6 to George Hesse in 2004 about officers
7 drinking while on duty?

8 A. Approximately three.

9 Q. Okay. And when was your first in
10 2004?

11 A. It was the summer of 2004 when I
12 had to leave two officers with a cell phone
13 and a police radio at CJ's Bar.

14 MO MR. NOVIKOFF: Okay. I'm going
15 to move to strike that part of the
16 answer after the time period that
17 Mr. Carter indicated in his answer.

18 Q. So you first complained in
19 2000 -- in the summer of 2004. When was
20 your second and third complaint?

21 A. Also the summer of 2004.

22 Q. Okay. Let's talk about your
23 first complaint to Mr. Hesse. What did you
24 specifically say to him?

25 A. I said, "George, I'm coming in."

1 E. Carter

2 There's no one -- there's a dock master at
3 the station." I said, "I got to walk into
4 CJ's Bar and get the radio and the cell
5 phone from Rich and Gary Bosetti, and I
6 think it's bullshit."

7 Q. And Rich and Gary Bosetti were
8 officers of Ocean Beach?

9 A. Yes.

10 Q. And when you went in on that
11 occasion to get the cell phone from them,
12 they were on duty, to the best of your
13 knowledge?

14 A. Yes.

15 Q. And what did Mr. Hesse say to
16 you, if anything, in response to your --

17 A. He -- he just looked at me and
18 walked away.

19 Q. Okay. And how long after you had
20 to get the cell phone from the Bosettis did
21 you make the complaint to George Hesse?

22 A. The next time I saw him.

23 Q. Okay. Was that the same night?
24 The next night? Next week?

25 A. It was within the week.

1 E. Carter

2 Q. Okay. And would you
3 characterize -- well, with regard to the
4 complaint about getting the cell phone from
5 the Bosettis in 2004 that you raised with
6 Mr. Hesse, did you raise this complaint with
7 Mayor Rogers?

8 A. No.

9 Q. Did you raise this complaint with
10 Ed Paridiso?

11 A. No.

12 Q. Did you raise this complaint with
13 Mr. Loeffler?

14 A. No.

15 Q. Did you raise this complaint with
16 any member of the -- any trustee?

17 A. No.

18 Q. Okay. Second time, what was your
19 complaint to Mr. Hesse about concerning
20 officers drinking on duty?

21 A. Same thing. Relieving the
22 officers in the bar.

23 Q. "Same thing" meaning you had to
24 go get the cell phone?

25 A. I had to go get the cell phone

1 E. Carter

2 and police radio from in the bar.

3 Q. And the bar was CJ's?

4 A. Yes.

5 Q. And what did Mr. Hesse say to you
6 in response to your second complaint on this
7 subject in 2004?

8 A. That he would take care of it.

9 Q. Okay. And did Mr. Hesse advise
10 you as to how he would take care of it?

11 A. No.

12 Q. Did you inquire with Mr. Hesse as
13 to how he would take care of it?

14 A. I found out the next time I
15 relieved.

16 Q. Did you inquire with Mr. Hesse
17 during the second complaint as to how he
18 would take care of it?

19 A. No.

20 Q. Okay. Did, to your knowledge --
21 withdrawn. To your knowledge, did Mr. Hesse
22 take care of it?

23 A. Yes.

24 Q. What did he do?

25 A. He then -- I then wound up

1 E. Carter

2 relieving -- walking into the station. A
3 dock master had the cell phone, the police
4 cell phone and the radio.

5 Q. So what exactly did Mr. Hesse do
6 to take care of it, to the best of your
7 recollection?

8 A. To the best of my knowledge, he
9 told them stop going out to the bars with
10 the police radio and the cell phone.

11 Q. Okay. And did the Bosettis stop
12 doing that after your second complaint in
13 2004?

14 A. Yes.

15 Q. Okay. What was your third
16 complaint concerning officers drinking on
17 duty to Mr. Hesse in 2004?

18 A. I'm sorry, officers drinking on
19 duty?

20 Q. Yes. Well, that was the only
21 thing I think you mentioned, so.

22 A. Yes. That was also the rocket
23 fuels being brought into the police station.

24 Q. Okay. And that was -- the third
25 complaint that you made to Mr. Hesse was

1 E. Carter

2 about the rocket fuels being brought into
3 the station?

4 A. Yes.

5 Q. What did Mr. Hesse say to you, if
6 anything, in response to your complaint on
7 this subject matter?

8 A. Just chuckled and ignored me.

9 Q. Okay. And did you speak with
10 Mr. Paridiso about your third complaint
11 concerning the rocket fuel?

12 A. No.

13 Q. Did you speak with mayor -- did
14 you complain to Mayor Rogers?

15 A. No.

16 Q. Did you complain to Mr. Loeffler
17 about this third complaint?

18 A. No.

19 Q. Did you complain to any trustee
20 member?

21 A. No.

22 Q. Did you communicate, in 2004,
23 with anyone, other than Mr. Hesse,
24 concerning your complaints about officers
25 drinking on duty that you've just testified

1 E. Carter

2 to?

3 A. No.

4 Q. 2005, did you complain to
5 Mr. Hesse about officers drinking on duty?

6 A. Yes.

7 Q. How many times?

8 A. One that sticks with me at this
9 time that I recall.

10 Q. And when was that?

11 A. It was Labor Day weekend.

12 Q. Labor Day, so that would have
13 been early September 2005?

14 A. Yes.

15 Q. And what did you say to
16 Mr. Hesse?

17 A. I told him down at a bar,
18 Maguire's, I said, "What's going on?" I
19 said, "I had to take off to go have one
20 drink and you guys are getting paid to have
21 a drink?" And he just looked at me and
22 said, "Shut up."

23 Q. What do you mean when you said
24 you had to take off to have one drink?

25 A. I wound up -- one of the guys was

10 Q. So Mr. Hesse said that you could
11 take a half a shift and celebrate with the
12 person going to Iraq, correct?

13 A. Yes.

14 Q. So what was your complaint?

15 A. Later, later in the morning,
16 approximately 3:30, 4:00 in the morning, I
17 walked down to Maguire's Bar, several of the
18 officers were inside drinking shots of
19 liquor while on duty.

20 Q. So your complaint was you had to
21 go off duty to drink, but the other people
22 were on duty and drinking?

23 MR. GOODSTADT: objection.

24 Q. Was that your -- was that your
25 complaint to Mr. Hesse?

1 E. Carter

2 A. No. My complaint is you're
3 drinking again in uniform and why did I have
4 to take off, you know.

5 Q. Yes. That's what I'm trying to
6 understand, sir. Were you upset that you
7 had to take off in order to have a drink
8 with your -- with your friend who was going
9 to Iraq?

10 A. No.

11 Q. And the other officers could
12 drink on duty?

13 A. I wasn't upset that I had to take
14 off, no.

15 Q. Then what was the purpose of your
16 telling George Hesse that you had to take
17 off to drink and the others didn't?

18 A. It just was part of what I said
19 to him. But my complaint was they were
20 drinking while on duty.

21 Q. So that was your complaint?

22 A. Yes.

23 Q. So let me go back to this
24 incident, this night. You asked Mr. Hesse
25 to just work 8:00 to 12:00, correct?

1 E. Carter

2 A. Yes.

3 Q. So you could have a couple of
4 drinks with your -- with your friend?

5 A. Yes.

6 Q. Who was an officer?

7 A. Yes.

8 Q. And you stopped working at 12:00
9 that night?

10 A. Yes, I did.

11 Q. And then at 4:00 in the morning,
12 you saw two on duty officers drinking?

13 MR. GOODSTADT: Objection.

14 Q. Is that your testimony?

15 A. No.

16 Q. What was your testimony?

17 A. Approximately 3:00, 3:30 in the
18 morning, down at Maguire's, there were
19 several officers.

20 Q. Okay. And where did you have
21 your drink with your friend?

22 A. Down at Ocean Beach.

23 Q. And is it your testimony that you
24 had two drinks in three hours?

25 A. Yes.

1 E. Carter

2 Q. And the rest of the evening was
3 just pleasant conversation?

4 MR. GOODSTADT: Objection.

5 A. I had one other drink later on.

6 Q. So you had three drinks?

7 A. Down with the officers later on,
8 yes.

9 Q. What officers?

10 A. George Hesse. The ones -- Jimmy
11 Albanese. The ones that were at Maguire's.

12 Q. Oh. Okay. So the officers that
13 you were talking about that were at Jimmy
14 Maguire's that were drinking on duty, you
15 joined them for a drink?

16 A. I didn't join them for a drink.
17 I walked in on them, and when I said that to
18 George, George told me, "Shut up," and then
19 handed me a shot.

20 Q. And you drank it?

21 A. He said, "Drink." Yeah. I was
22 off. Yes.

23 Q. Let me understand this now.
24 You're at one bar at Ocean Beach and you
25 have a couple drinks in a three-hour period

1 E. Carter

2 of time with a fellow officer who's going
3 off to Iraq, right?

4 A. Yes.

5 Q. You then go to another bar,
6 right?

7 A. Um-hum (indicating).

8 Q. Why were you going to the other
9 bar?

10 A. I was looking for the officers to
11 make sure when they got off at 4:00, that I
12 could get a ride out to my vehicle so I
13 could drive home.

14 Q. And how did you know other
15 officers were going to be at Maguire's?

16 A. I didn't. It was at the other
17 side of the village, and that's when I was
18 walking around looking for everybody.

19 Q. And you then show up at Maguire's
20 and you say what to George?

21 MR. GOODSTADT: Objection.

22 A. I first couldn't -- I didn't see
23 George there at first. He was in the front
24 part up against the bar.

25 Q. You didn't see George when you

1 E. Carter

2 walked into the bar?

3 A. At first, no.

4 Q. How many people were in the bar
5 at 3:00 in the morning?

6 A. Several. It was Labor Day
7 weekend. There was -- my estimate, to the
8 best of my knowledge at this time, would be
9 approximately 50 or better.

10 Q. Okay. So you didn't see George
11 when you walked in, but at some point in
12 time you said something to George, right?

13 A. Yes.

14 Q. What did you say to George?

15 MR. GOODSTADT: Objection.

16 A. I told him, I said, "You know,
17 this is bullshit."

18 Q. And he told you to shut up?

19 A. Yes.

20 Q. And then he hands you a shot?

21 A. Couple seconds, minute later,
22 yes.

23 Q. And you drank it?

24 A. Yes.

25 Q. Why? A man just told you to shut

1 E. Carter

2 up after you made a complaint. He hands you
3 a shot. This is the man that has laughed at
4 you, ignored you for two and a half years
5 concerning the issue of officers drinking on
6 duty. Why did you drink with him that night
7 when he said "here's a shot"?

8 MR. GOODSTADT: Objection.

9 A. I wound up drinking a shot, yes.

10 Q. My question is why, sir? Why did
11 you drink the shot that George Hesse gave
12 you after two and a half years of him
13 ignoring your complaints concerning officers
14 drinking on duty?

15 A. You have to understand, when you
16 make a complaint with George and you go
17 against him, he becomes very hostile, very
18 retaliatory, and he'll -- he would basically
19 explode on you in his own words.

20 Q. So you had a shot because you
21 were afraid that George Hesse was going to
22 yell at you?

23 A. I had a shot because I only had
24 two prior and I wasn't -- had a limit that
25 I would be drunk to drive home, so yes, I

1 E. Carter

2 had one.

3 Q. Sir, I'm not questioning your
4 inebriation or lack thereof when you had the
5 shot with Mr. Hesse. I'm asking you -- the
6 question is based upon what you've just
7 said, did you drink that shot because you
8 were afraid that Mr. Hesse would verbally
9 explode on you?

10 A. Drink that shot for that reason,
11 no.

12 Q. Did you drink that shot because
13 you thought that Mr. Hesse would somehow
14 retaliate against you if you didn't?

15 A. No.

16 Q. So I go back to my prior
17 question, sir. You walk into that bar that
18 night. The man that you have complained to
19 for two and a half years concerning officers
20 on duty drinking tells you to shut up. He
21 hands you a shot of alcohol and you drink
22 it. Why?

23 A. The shot was there. I wanted it
24 and I drank it.

25 Q. Okay. And Mr. Hesse was on duty?

1 E. Carter

2 A. Yes.

3 Q. So you engaged in drinking with
4 an on duty police officer?

5 MR. GOODSTADT: Objection.

6 Q. Is that your testimony?

7 MR. GOODSTADT: Objection.

8 A. I drank it and George Hesse had
9 one, yes.

10 Q. You participated in drinking with
11 an on duty police officer?

12 MR. GOODSTADT: Objection.

13 A. Yes.

14 Q. The conduct that you complained
15 of for two and a half years, you
16 participated in while you were off duty,
17 correct?

18 A. Yes. I didn't tell him to drink
19 it, though.

20 Q. I know. But you participated in
21 the very conduct that you were complaining
22 about, correct?

23 A. Yes.

24 Q. Now in the first page of your
25 complaint, sir, you write "Plaintiffs are

1 E. Carter

2 five police officers who had the courage to
3 overcome the blue wall of silence," do you
4 recall that in your complaint?

5 MR. GOODSTADT: Objection.

6 A. Yes.

7 Q. You didn't show much courage that
8 night when Mr. Hesse gave you the shot, did
9 you?

10 MR. GOODSTADT: Objection.

11 A. Again, I was off duty. Yes.

12 Q. You believe you showed courage?

13 A. I didn't believe I had to show
14 courage. I was in a legal establishment, a
15 legal drink.

16 Q. Yeah, but Mr. Hesse was on duty,
17 right?

18 A. Yes.

19 Q. And that was the conduct you
20 complained of, correct?

21 A. Yes.

22 Q. You found it offensive that
23 police officers were drinking on duty,
24 correct?

25 A. Yes.

1 E. Carter

2 Q. You believed that it violated the
3 public trust, correct?

4 A. Yes.

5 Q. You believed it put citizens in
6 jeopardy, correct?

7 A. Yes.

8 Q. So you still believe that you
9 didn't need to exercise courage and to say
10 to Mr. Hesse, "no, I'm not going to
11 participate in what I deem to be a breach of
12 the public trust"?

13 MR. GOODSTADT: Objection.

14 Q. Is that your testimony, sir?

15 MR. GOODSTADT: Objection.

16 A. No.

17 Q. Okay. In 2006, sir, I think
18 you've only -- well, I want you to take
19 some time. Think about any other complaint
20 in 2006 that you raised with Mr. Hesse
21 concerning on duty police officers drinking.

22 A. 2006 I didn't work many hours.

23 Q. Regardless of how many hours you
24 worked, you just said you can recall one
25 incident during the Labor Day weekend.

1 E. Carter

2 A. That was 2005.

3 Q. Oh, my question to you, sir, was
4 2006 I believe. Oh, it was 2005. You're
5 right. I apologize. In 2005, sir, other
6 than this one incident on Labor Day weekend
7 that you can recall, can you recall any
8 others? Complaints to George Hesse
9 concerning officers drinking on duty?

10 A. No.

11 Q. Okay. If I gave you five minutes
12 to think about it, do you think that would
13 refresh your recollection?

14 MR. GOODSTADT: Objection.

15 A. Yes. Well, 2005, Paul Conway was
16 still bringing the rocket fuels inside,
17 but --

18 Q. My question, sir, is regardless
19 of your witnessing of certain events, I'm
20 asking you other than the complaint that you
21 raised with Mr. Hesse in McGuire's during
22 Labor Day weekend, can you recall any other
23 complaints that you raised to Mr. Hesse in
24 2005 concerning officers drinking on duty?

25 A. Cleaning out of the beer cans in

1 E. Carter

2 the cars. The officers pulling up to the
3 check point with beers in their hand.

4 Q. And you made -- and you made
5 these complaints to George Hesse?

6 A. George Hesse was driving the one
7 night, yes.

8 Q. No. My question is not what
9 Mr. Hesse was doing, not what you witnessed.
10 We've gone through 2003, 2004, and 2005
11 concerning direct complaints that you raised
12 with Mr. Hesse, you would agree with me?

13 A. Yes.

14 Q. And you answered those questions
15 truthfully, correct?

16 A. Yes.

17 Q. And I believe in 2003 you made
18 three complaints, and in 2004 you said three
19 complaints, right?

20 A. Yes.

21 Q. And in 2005 you've told me of one
22 complaint Labor Day weekend. So my question
23 is, are there any other complaints that you
24 can recall that you made directly to George
25 Hesse concerning the subject matter of

1 E. Carter

2 officers drinking on duty in 2005?

3 A. Not that I recall at this time.

4 Q. And, again, if I gave you an
5 opportunity to think about it, do you think
6 that would refresh your recollection?

7 A. Yes.

8 Q. Do you want take a couple
9 minutes?

10 A. Yes.

11 Q. Please do. Oh, you wanted to go
12 off the record and do that?

13 A. Oh, I'm sorry.

14 Q. No. It's up to you. However
15 you --

16 A. I was going to use the bathroom.
17 I'm sorry.

18 Q. You know what, then why don't we
19 do this. Let's take a break. You go to the
20 bathroom, you think about that, and come
21 back and tell me if it refresh yours
22 recollection.

23 THE VIDEOGRAPHER: This ends
24 tape number one. The time is 10:45
25 a.m. We're going off the record.

1 E. Carter

2 (A break was taken.)

3 THE VIDEOGRAPHER: This begins
4 tape number two. The time is 10:55
5 a.m. Back on the record.

6 Q. Mr. Carter, was that the only
7 time you ever drank with Mr. Hesse on Ocean
8 Beach?

9 A. Yes.

10 Q. Ever?

11 A. Yes.

12 Q. That's the only time you ever
13 drank with Mr. Hesse on Fire Island?

14 A. Yes.

15 Q. Ever?

16 A. Yes.

17 Q. Was that the first time you ever
18 drank alcohol with any other -- putting
19 aside the night -- putting aside what you
20 did between 12:00 and 3:00 that night, was
21 that the only time that you ever drank
22 alcohol with any other officer, whether on
23 duty or off duty, on Ocean Beach?

24 A. No.

25 Q. Did you ever drink -- prior to

1 E. Carter

2 that time, did you ever drink with any
3 officers -- well, withdrawn. Prior to that
4 night, did you ever drink with any on duty
5 officers on Ocean Beach?

6 A. No.

7 Q. So the only time you would have
8 had a drink with an officer would have been
9 when that particular officer was off duty?

10 A. Yes.

11 Q. How often, in 2005, did you drink
12 with an off duty police officer on Ocean
13 Beach?

14 A. Once.

15 Q. And that was just with Mr. Hesse?

16 A. Mr. Hank Clemens. Off duty with
17 Hank and then George. The same instance.
18 Same night.

19 Q. How about 2004?

20 A. 2004, none.

21 Q. 2003?

22 A. 2003, none.

23 Q. 2002?

24 A. 2002, none.

25 Q. 2001?

1 E. Carter

2 A. None.

3 Q. So then the only time you would
4 have had a drink with any other officer,
5 whether on duty or off duty, was that night
6 during Labor Day weekend in 2005; is that
7 correct?

8 A. No.

9 Q. You know what, then tell me the
10 other times you would have had a drink of
11 alcohol with an off duty police officer
12 while on Ocean Beach?

13 A. 1991 we had a police party the
14 end of the year.

15 Q. Okay.

16 A. 1992 we had a police party at the
17 end of the year. 1993, when I went out of
18 the village to Ocean Bay Park for dinner,
19 after work, I might have had a drink.

20 Q. Okay.

21 A. So there were a couple times in
22 '91 to '93.

23 Q. Got it. Let's continue on --
24 well, let's go back to 2005 for a second.
25 Did you complain to Chief Paridiso about

1 E. Carter

2 what you complained to Mr. Hesse about on
3 Labor Day weekend 2005 concerning drinking
4 while on duty?

5 A. No.

6 Q. Same question with regard to
7 mayor -- excuse me, Mr. Loeffler?

8 A. No.

9 Q. Same question with regard to
10 Mayor Rogers?

11 A. No.

12 Q. Same question with regard to
13 trustees?

14 A. No.

15 Q. Did you communicate with any
16 trustee or mayor of Ocean Beach in 2005
17 concerning your complaint to Mr. Hesse?

18 A. No.

19 Q. Same question with regard to
20 Mr. Paridiso?

21 A. No.

22 Q. 2006, did you make any complaints
23 to George Hesse concerning on duty officers
24 drinking?

25 A. No.

1 E. Carter

2 Q. Same question with regard to Ed
3 Paridiso?

4 A. No.

5 Q. Same question with regard to any
6 mayor or trustee at the time?

7 A. No.

8 Q. Let's now go to the second page
9 of your Notice of Claim. "Items of damage
10 or injuries claimed," do you see that, after
11 number four, next to number four?

12 A. Yes.

13 Q. Let's go in the -- let's see what
14 you wrote. "Claimant sustained damages and
15 injuries, including but not limited to,
16 monetary and/or economic damages, including
17 but not limited to, loss of past and future
18 income, compensation and benefits, legal
19 fees and costs, permanent damage to his
20 personal and professional reputation and
21 standing in the community, loss of comfort
22 and support, fear, extreme mental and
23 emotional harm and stress, impairment of
24 natural growth process, and other injuries
25 not yet fully ascertained." How much have

1 E. Carter

2 you paid in legal fees and costs?

3 DI MR. GOODSTADT: Objection.

4 Don't answer the question.

5 MR. NOVIKOFF: Mr. Goodstadt,
6 it's part of his Notice of Claim that
7 this is what he's incurred. I think
8 since you have raised it -- not you but
9 since the Plaintiff has raised this in
10 the Notice of Claim as damages he's
11 seeking to recover, I'm completely
12 entitled to asking the question how
13 much, without going into any detail
14 behind that.

15 MR. GOODSTADT: You can take it
16 up with the court.

17 MR. NOVIKOFF: You're
18 instructing him not to answer?

19 MR. GOODSTADT: I'm instructing
20 him not to answer.

21 MR. NOVIKOFF: All right. That
22 one I'm taking up with the court, and I
23 may move for appropriate sanctions on
24 that, because that's the first I heard
25 of this.

1

E. Carter

2

MR. GOODSTADT: Every case that
has statutory fee provisions, requests
legal fees and costs, and if you can
cite me to some authority where they
were -- a defense lawyer was entitled
to ask how much money was spent in
legal fees up to the date of
deposition --

10

MR. NOVIKOFF: Oh, no. No.
No. That's not my question. And I
agree with you entirely, Mr. Goodstadt.
That should you prevail in this case,
your client is entitled to statutory
fees and costs. That's not my
question.

17

Your client, in his Notice of
Claim, said the items of damages or
injuries claimed are legal fees and
costs. My question is, has he paid any
legal fees and costs to date. Not what
his ultimate damages would be, or not
what you could recover if you prevail.
But --

25

MR. GOODSTADT: That's what he

1 E. Carter

2 was referring to there.

3 MR. NOVIKOFF: Then if that's
4 what your answer -- if that's what
5 you're going to put on the record, then
6 I'll move on.

7 Let the record reflect that
8 Mr. Goodstadt has indicated that when
9 legal fees and costs are referred to,
10 it's being referred to the statutory
11 fees and costs that Plaintiff would be
12 entitled to in the event he prevails.

13 MR. GOODSTADT: That's correct.

14 MR. NOVIKOFF: Okay.

15 Q. "Loss of comfort and support,"
16 what did you mean by that?

17 A. My own comfort. My sleep. My
18 support. Obviously my family supported me.
19 I lost friends which I use as support.

20 Q. Okay. You've -- let's break it
21 down. Loss of comfort and support you say
22 you've lost your family's comfort and
23 support?

24 A. No.

25 Q. Okay. I'm sorry. Go ahead. You

1 E. Carter

2 can finish your answer. My question to you
3 is, have you lost -- when you're using the
4 words "loss of comfort and support," have
5 you lost your family's comfort and support?

6 A. No.

7 Q. Okay. What friends have you lost
8 when you are referring to "loss of comfort
9 and support"?

10 A. Several friends that I used to
11 work with at Ocean Beach that would support
12 you just by being around you when you worked
13 and stuff.

14 Q. And who were they?

15 A. Who were they. John Oley, Alan
16 Loeffler, Arnie Hardman, Paul Corallo. I
17 could go on.

18 Q. Please, go on.

19 A. Pat Cherry. I call him
20 Mr. Cherry. He's the older Cherry. And
21 there were other residents and stuff which
22 no longer talk to me.

23 Q. Well, what residents no longer
24 talk to you?

25 A. One that I just ran into the

1 E. Carter

2 other day was the owner of the OB Market.

3 Just looked -- kept staring at me at a

4 parking violations hearing.

5 Q. Where?

6 A. In Islip.

7 Q. And he kept staring at you?

8 A. Until I walked up to him and said
9 something. He says, "I wasn't sure if you'd
10 talk to me."

11 Q. I'm --

12 A. "I wasn't sure if you'd talk to
13 me."

14 Q. Did he talk to you?

15 A. After a little while.

16 Q. Okay. So he talked to you?

17 A. Not like he used to.

18 Differently.

19 Q. Well, prior to that time, what --
20 actually, what is this gentleman's name?

21 A. I don't know his first name. He
22 owned the OB Market.

23 Q. Okay. So you're saying you lost
24 this friend's comfort and support, but you
25 don't know his name?

1 E. Carter

2 A. No. It was someone I saw over
3 there, and you know, I would see from day to
4 day when I was working and stuff. "Hi."
5 "How you doing." "What's up." "How's
6 everything."

7 Q. But you don't know his name?

8 A. No.

9 Q. What other friends that aren't on
10 the police officer -- that weren't police
11 officers at Ocean Beach -- well, withdrawn.
12 You mentioned residents. You just mentioned
13 one. Any other residents that you believe
14 you've lost as a result of the actions of
15 Ocean Beach?

16 A. I believe I lost most of the
17 residents. From what's been posted on the
18 blog and stuff, it said straight out, you
19 lost many friends.

20 Q. Yeah. I'm asking you, sir. You
21 said that you lost the comfort and support
22 of friends. You've identified one
23 individual for whom you don't know the name
24 of as a friend. What other friend can you
25 identify for me that you've lost as a result

1 E. Carter

2 of the actions of Ocean Beach, other than
3 those police officers that you've
4 identified?

5 A. None that I recall at this time.

6 Q. Now the police officers that
7 you've lost, can you describe what you mean
8 by the phrase "you've lost them"?

9 MR. GOODSTADT: Objection.

10 Q. You can answer.

11 A. I can answer? I'm sorry. First
12 thing was after the Gilbert incident, Paul
13 Corallo, I used to relieve all the time. He
14 would sit -- he would talk to me for a
15 little while. He clammed right up.
16 Wouldn't talk to me when I was let go. I
17 haven't heard from him since.

18 Q. And when was the Gilbert
19 incident?

20 A. Gilbert incident was August of
21 2005.

22 Q. Okay. And my question to you,
23 sir, is, what did you mean when you said you
24 lost the friendship of those police
25 officers? Is that the only example that you

1 E. Carter

2 can give me?

3 A. No. Their support, you know,

4 with the friendship. A friendship.

5 Support. You know.

6 Q. What do you mean by "support"?

7 A. Just being there for you to get
8 through this.

9 Q. Get through what?

10 A. Get through the hard part of
11 being let go. Terminated. Why I was
12 terminated. Mental anguish.

13 Q. Have you reached out to any of
14 those officers for their support and comfort
15 that you've identified?

16 A. Yes.

17 Q. Subsequent to being let go as you
18 say?

19 A. John Oley.

20 Q. Okay. When did you reach out to
21 John Oley? And spell his last name for me?

22 A. O - L - E - Y .

23 Q. Okay. When did you reach out to
24 him?

25 A. I saw him approximately

1 E. Carter

2 November -- it was late 2006 and he wouldn't
3 even talk to me.

4 Q. Okay. But, sir, you filed this
5 Notice of Claim in June of 2006, at least
6 it's dated. So why don't we stick with
7 prior to June 2006. Who did you reach out
8 to prior to filing the Notice of Claim that
9 would not speak to you that was a police
10 officer at Ocean Beach for comfort and
11 support?

12 MR. GOODSTADT: Objection.

13 MR. NOVIKOFF: I'll withdraw
14 the question. I'll rephrase it.

15 Q. What police officer, between
16 April 2, 2006 and June 30 2006, of Ocean
17 Beach did you reach out for comfort and
18 support? What officer?

19 A. None.

20 Q. None. Okay. Between 2000 --
21 June 30, 2006 and the date you filed the
22 complaint, which for the record is March 21,
23 2007, what police officer at Ocean Beach did
24 you reach out for comfort and support?

25 A. John Oley.

1 E. Carter

2 Q. Okay. And describe for me the
3 incident involving Mr. Oley.

4 MR. GOODSTADT: Objection.

5 A. I saw Mr. Oley at Bay Shore
6 Dunkin Donuts. I walked in. He looked at
7 me, and I could tell immediately he didn't
8 want me there. I walked up to him. I said,
9 "How you doing, John?" I said, "Are you
10 going to say hi?" And he just stared at me
11 for a minute. And he goes, "Yeah, Eddie, I
12 was going to say hi." And when we went
13 outside, you know, I said, "John, why don't
14 you ever call me? What was up? You know,
15 we were good friends I thought." I said,
16 "You know, what's going on? And why did
17 George keep you and let me go, Tom, Kevin,
18 Joe and Frank?" And he just looked. He
19 said, "well," he said, "I don't know. Why
20 did he let you go?" And that was it.
21 Pretty much he blew me off.

22 Q. Why did you think John should
23 have been let go as well as -- withdrawn.
24 Why do you think John should have been let
25 go if you were let go?

1 E. Carter

2 A. Because there was no reason to
3 let me go.

4 Q. Then what reason was there to let
5 John go?

6 A. None. Same reason.

7 Q. And prior to meeting -- prior to
8 the -- withdrawn. Prior to seeing him in
9 the Bay Shore Dunkin Donuts, did you reach
10 out to John Oley between the date of the
11 filing of the Notice of Claim and the date
12 of the filing of the complaint?

13 A. No.

14 Q. Other -- let's now talk about the
15 time period between March 21, 2007 and the
16 present. What police officers at Ocean
17 Beach have you reached out for comfort and
18 support?

19 A. Alan Loeffler.

20 Q. Alan Loeffler?

21 A. Yes.

22 Q. Is Alan Loeffler related at all
23 to Defendant Joseph Loeffler?

24 A. Yes.

25 Q. And what is their relationship?

1 E. Carter

2 A. Brothers.

3 Q. So you reached out to the brother
4 of the person that you were suing
5 individually for comfort and support, is
6 that your testimony?

7 A. Yes. Me and Alan Loeffler were
8 very good friends at one time.

9 Q. When did you reach out to
10 Mr. Alan Loeffler for comfort and support?

11 A. Originally I dropped my uniforms
12 off to him. I work with Alan in the Town of
13 Islip to let you know, and I see him from
14 day to day at different times.

15 At the time the lawsuit was
16 filed, he came around the corner and he
17 looked at me and he says, "I can't talk to
18 you." And I said, "Al, what are you talking
19 about? Cut the shit. What's going on?"
20 And he says, "Well, you filed a lawsuit." I
21 said, "Yeah." I said, "So that means our
22 friendship's over?" And he looked at me and
23 he walked -- you know, pretty much he talked
24 to me for a couple seconds. Nothing -- very
25 vague that I remember and he walked away.

1 E. Carter

2 That was it. I haven't spoken to him since.

3 Q. Are you surprised that he didn't
4 want to talk to you, given the fact that you
5 sued his brother?

6 A. Yes.

7 Q. You are?

8 A. Yes.

9 Q. Do you have a brother?

10 A. Yes.

11 Q. If someone sued your brother,
12 would you want to speak to them?

13 MR. GOODSTADT: Objection.

14 A. If they were a good friend of
15 mine, yes.

16 Q. Okay. That's interesting.

17 MR. GOODSTADT: Objection.

18 Q. Okay. So between the date of the
19 filing of the complaint and the present, you
20 reached out to Alan Loeffler. Anybody else?
21 Any other police officer at Ocean Beach that
22 you reached out for comfort and support?

23 A. No.

24 Q. Okay. So we have Mr. Loeffler
25 and we have Mr. Oley, is that it?

1 E. Carter

2 A. Yes.

3 Q. Okay. Has your wife left you?

4 A. No.

5 Q. Have your children abandoned you?

6 A. No.

7 Q. Any other friends abandon you as
8 a result of you not being let go -- you not
9 being rehired on April 2, 2006 by Ocean
10 Beach?

11 MR. GOODSTADT: Objection.

12 A. No.

13 Q. Okay. You mention as part of
14 your loss of comfort, that you couldn't
15 sleep. Did I fairly characterize your
16 testimony?

17 A. Yes.

18 Q. When did you -- when did you
19 start having difficulty sleeping in relation
20 to April 2, 2006?

21 A. April 2, that night.

22 Q. Okay. And how long has it
23 continued, if at all?

24 A. It continued originally for
25 approximately a week and a half, and every

1 E. Carter

2 time I see one of these defamatory remarks
3 or whatever on that blog or someone brings
4 it up to me, I relive it. I relive April 2.

5 Q. Okay. And when's the last time
6 you looked at the blog?

7 A. Approximately one week ago.

8 Q. Why?

9 A. Because someone told me there was
10 posted -- something posted about me on
11 there.

12 Q. What was posted a week ago?

13 A. That myself and another officer
14 were doing official misconduct again by
15 falsifying time cards basically.

16 Q. Who posted it?

17 A. I don't know.

18 Q. Do you know, as you sit here
19 today, the identity of anyone who posted
20 anything on this blog that you're referring
21 to?

22 A. Yes.

23 Q. Who?

24 A. Tom Snyder.

25 Q. Oh. So Mr. Snyder's a defendant?

1 E. Carter

2 MR. GOODSTADT: Objection.

3 Q. Is Mr. Snyder a Plaintiff in this
4 lawsuit?

5 A. Yes.

6 Q. And it's your testimony that
7 Mr. Snyder posted something on the blog?

8 A. In --

9 Q. No. Just -- don't tell me when.

10 A. Yes.

11 Q. How do you know that Mr. Snyder
12 posted something on the blog?

13 A. He told me, and I went on the
14 blog and I saw it posted there.

15 Q. I'm sorry?

16 A. I went on the blog and saw it
17 posted there.

18 Q. When did Mr. Snyder tell you he
19 posted something on the block blog?

20 A. April of 2006.

21 Q. Shortly after April 2, 2006?

22 A. Within that week, yes.

23 Q. Within that week. Did Mr. Snyder
24 advise you as to why he was posting anything
25 on this blog?

1 E. Carter

2 A. Yes.

3 Q. Why? What did he say to you?

4 A. He said, "Ed, someone posted
5 something about me and you, mostly about you
6 working Halloween night, doing official
7 misconduct and falsifying paperwork. I
8 posted something in response to it saying
9 that you were not working, that you did not
10 do any of that," and he ID'd himself in that
11 blog that, "whoever you are posting this,
12 you know who I am and where to get in touch
13 with me now. My name's Tom."

14 Q. Okay. Is that the only time, to
15 your knowledge, that Mr. Snyder posted
16 something on the blog?

17 A. Yes.

18 Q. To your knowledge, has any
19 other -- has any other Plaintiff posted
20 anything on the blog?

21 A. No.

22 Q. Other than Mr. Snyder, do you
23 know -- do you have personal knowledge of
24 the identity of any person who posted
25 anything on the blog since April 2, 2006

1 E. Carter

2 through the present?

3 A. Yes.

4 Q. Who?

5 A. Tyree Bacon.

6 Q. How do you know that Tyree Bacon
7 posted anything on the blog?

8 A. Tom Snyder had a meeting with
9 George Hesse in May of 2006 complaining
10 about the -- one of the blogs was the "OB
11 resident" the name was. He complained that
12 even residents are posting about us, the
13 officers that were let go, and George Hesse
14 told him, "Tom, it's not the residents.
15 It's us in the police department and Tyree
16 Bacon."

17 Q. Okay. So you don't have personal
18 knowledge that it's Tyree Bacon, the only
19 knowledge you have is that Mr. Snyder told
20 you that Mr. Hesse told him that it was
21 Tyree Bacon?

22 A. Yes.

23 Q. Okay. Have you gone to a doctor
24 with regard to your lack of ability to sleep
25 on certain occasions since April 2, 2006?

1 E. Carter

2 A. No.

3 Q. Have you taken any medication?

4 A. No.

5 Q. Has it interfered with your
6 full-time job?

7 A. Yes.

8 Q. How has it interfered with your
9 full-time job?

10 A. I went to work a couple nights,
11 you know, with a fogged head. I wasn't 100
12 percent.

13 Q. When do you work for the Town of
14 Islip? What are your normal hours?

15 A. I don't have normal hours. I
16 work different shifts. Right now I work
17 midnight to 8:00.

18 Q. Midnight to 8:00. And a couple
19 of -- is it your testimony that a couple of
20 occasions you went to a job -- your job at
21 night with a fogged head?

22 A. With stuff in my head about the
23 beach, yes.

24 Q. And how did that interfere with
25 your job? Did you commit any acts of

1 E. Carter

2 negligence that day?

3 A. No.

4 Q. Were you reprimanded at all for
5 conduct -- for anything that went on during
6 that day that you went to work with a fogged
7 head?

8 A. No.

9 Q. Did you lose any benefits as a
10 result of anything that took place on those
11 few occasions that you went to work with a
12 fogged head?

13 A. No.

14 Q. Did you get demoted at all?

15 A. No.

16 Q. Was there any adverse action
17 taken against you as a result of anything
18 you may have done on those few occasions
19 that you went to work with a fogged head?

20 MR. GOODSTADT: Objection.

21 A. No.

22 Q. Have you sought any -- have you
23 been to a psychiatrist at all with regard to
24 any issues concerning your lack of sleep?

25 A. No. I couldn't.

1 E. Carter

2 Q. You couldn't?

3 A. No.

4 Q. Why couldn't you go see a
5 psychiatrist?

6 A. Because of my professional
7 full-time job, the minute you see a
8 psychiatrist, a mental health report would
9 have been forwarded there.

10 Q. Let me understand this, if you
11 went to see a psychiatrist, you would have
12 to report that to your superior?

13 A. To my employee assistant program,
14 yes.

15 Q. And what is your understanding as
16 to why you would have to report that?

17 A. As a peace officer in New York
18 State, it would go on my permanent record
19 and it would automatically be flagged and
20 sent over there.

21 Q. And do you know what statute
22 requires you to notify anyone at your job
23 that you went to see a psychiatrist?

24 MR. GOODSTADT: Objection.

25 A. Not at this time.

1 E. Carter

2 Q. Can you tell me where you get
3 this information from that you've just
4 testified to, that you're required to notify
5 your employer that you went to see a
6 psychiatrist?

7 A. Well, my promotion pending, and
8 my belief -- my belief is that it would have
9 affected that, and I would have had to make
10 that personal knowledge, public knowledge --
11 personal knowledge at work.

12 Q. And what is your belief based on?
13 That's really what I'm asking you. What is
14 your belief based on that had you gone to
15 see a psychiatrist or a mental health
16 professional, you would have had to notify
17 your employer?

18 A. Past interviews.

19 Q. Past interviews with whom?

20 A. With different agencies with
21 myself.

22 Q. And what did these interviewers
23 say to you, if anything, that led you to
24 believe that were you to go to a
25 psychiatrist, you would have to notify them,

1 E. Carter

2 notify an employer that you went to see a
3 psychiatrist?

4 A. I had to fill out a disclosure
5 form for the Mental Health Department for
6 New York State.

7 Q. And what was the disclosure form?

8 A. It was a standard New York State
9 disclosure form asking about my past
10 psychological history. If there was any
11 contact with a psychiatrist or whatever.

12 Q. Do you have a copy of this form
13 in your custody, possession or control?

14 A. No.

15 Q. Who would have -- for whom did
16 you fill this form out?

17 A. I've had to fill it out for the
18 Town of Islip and I've seen it at Ocean
19 Beach with the applicant investigation
20 packet.

21 Q. All right. I'll look for that
22 form. You write "extreme mental and
23 emotional harm and stress." What did you
24 mean by that?

25 A. The emotional harm and stress of

1 E. Carter

2 going back -- like I said, when you see
3 stuff on the blog and reliving April 2, the
4 termination, and I -- you know, it's very
5 disturbing to me to this day.

6 Q. What physical reactions, if
7 any -- well, what physical manifestations,
8 if any, do you believe have resulted from
9 this extreme mental and emotional harm and
10 stress?

11 A. My heart would race. I would get
12 severe headache. I would take -- I would
13 have to take Tylenol with codeine.

14 Q. Is your heart racing now?

15 A. No.

16 Q. You're reliving April 2 today,
17 aren't you?

18 A. At a different point, yes. Where
19 I'm not seeing something put in the computer
20 or whatever or put in my face that I did
21 illegally that I didn't.

22 Q. So if we -- is it your testimony
23 that if I showed you the blog, that would
24 cause your heart to race?

25 MR. GOODSTADT: Objection.

1 E. Carter

2 A. If you showed me parts of
3 postings, yes.

4 Q. And have you seen any doctor
5 concerning your heart racing?

6 A. No.

7 Q. That's pretty serious, wouldn't
8 you agree?

9 A. No. Because it comes and it
10 goes.

11 Q. Okay. So you didn't think it was
12 serious enough to see a doctor?

13 A. No.

14 Q. Other than your heart racing, was
15 there any other physical manifestations of
16 this extreme mental and emotional harm and
17 stress that you allege?

18 A. The anguish. The -- I told you I
19 had to take Tylenol with codeine a couple
20 times.

21 Q. With codeine?

22 A. The ones you buy over the
23 counter.

24 Q. Oh, okay.

25 A. I think -- I believe that's what

1 E. Carter

2 they have in them.

3 Q. And have you seen any doctor
4 concerning the headaches?

5 A. No.

6 Q. How many times have you had
7 headaches resulting from seeing the blog
8 that resulted -- that caused you to take
9 Tylenol?

10 A. I couldn't give you an exact
11 amount now. Approximately, at least a dozen
12 times.

13 Q. Over the two and a half year time
14 period?

15 A. Yes. But I don't look at the
16 blog all the time.

17 Q. I understand that. But it's
18 about two and a half years since April 2,
19 right?

20 A. Yes.

21 Q. "Other injuries not yet fully
22 ascertained," do you see that?

23 A. Yes.

24 Q. Well, this was filed -- well,
25 this is dated June 30, 2006. We're now in

1 E. Carter

2 September of 2008. Have you ascertained yet
3 those other injuries?

4 MR. GOODSTADT: Objection.

5 A. Not that I'm aware of.

6 Q. Okay.

7 A. Sir, if I may.

8 Q. Sure.

9 A. This paragraph is -- the
10 sentences in this paragraph are contained
11 obviously in a paragraph. The paragraph as
12 a whole is what I signed the notice of
13 complaint.

14 Q. I understand that. And you've
15 made certain allegations in this paragraph
16 concerning what your damages are, and one of
17 them was "other injuries not yet fully
18 ascertained," and my question to you, sir,
19 if you need to respond again to it, was
20 between June 30, 2006 and today, have you
21 ascertained yet the other injuries?

22 MR. GOODSTADT: Objection.

23 A. Not to my knowledge, no.

24 Q. "Impairment of natural growth
25 process," what did you mean by that?

1 E. Carter

2 A. I've lost hair.

3 Q. You've what?

4 A. I've lost hair.

5 Q. How old are you?

6 A. I'm 43 now.

7 Q. When did you start losing hair?

8 A. I've lost clumps -- I started
9 losing my hair 42.

10 Q. So -- and how old are you now?

11 A. 43.

12 Q. So is it your testimony that
13 within the last year, you went from a full
14 set of hair to what appears now to be a
15 significantly receding hair line?

16 A. No.

17 Q. No. So you started losing hair
18 before the age of 42, correct?

19 A. Not as much as after 42.

20 Q. Did you start losing your hair
21 before the age of 42?

22 A. Yes.

23 Q. When did you start losing your
24 hair, sir?

25 A. I don't know. I don't recall.

1 E. Carter

2 MR. NOVIKOFF: Well, let's
3 look at what has been identified as
4 9270. I don't have copies of it, but
5 it's a picture of Mr. Carter. Let's
6 mark this as Exhibit-2.

7 (Document Bates stamped 9270
8 was marked as Carter Exhibit-2 for
9 identification; 9/16/08, E.L.)

10 Q. I'm going to show you what's been
11 marked as Exhibit-2. If you want to show it
12 to your attorney before I ask you questions,
13 by all means do so. Is that a picture of
14 you, sir?

15 A. Yes, sir.

16 Q. Do you know when this picture was
17 taken?

18 A. I believe it was taken in 2005.

19 Q. Okay. Do you know for what
20 purpose it was taken in 2005?

21 A. Grand jury subpoena.

22 Q. A grand jury subpoena?

23 A. Yes.

24 Q. What grand jury subpoena?

25 A. That George Hesse had on his desk

1 E. Carter

2 that the grand jury subpoenaed pictures of
3 the officers for Gilbert.

4 Q. My question to you, sir, was when
5 was your picture taken?

6 A. In 2005.

7 Q. Where?

8 A. In the police station.

9 Q. Which police station?

10 A. Ocean Beach.

11 Q. Okay. And the purpose of taking
12 that picture was related to a grand jury
13 subpoena?

14 A. Yes.

15 Q. Okay. And would you describe for
16 me -- well, would it be fair to say that on
17 that picture, your hair line is
18 significantly receded?

19 A. Yes.

20 Q. Okay. So would you agree with me
21 that at some point in time prior to 2005,
22 your hairline has significantly -- was
23 significantly receding?

24 A. Yes.

25 Q. Do you have any pictures of you

1 E. Carter

2 prior to 2005 in your custody, possession or
3 control?

4 A. Driver's license.

5 Q. Do you have a driver's license on
6 you right now?

7 A. Yes.

8 Q. When was your driver's license
9 taken?

10 A. I don't know at this time without
11 looking at it.

12 Q. Can you please look at your
13 driver's license now?

14 MR. GOODSTADT: Objection.

15 Objection. You can make a document
16 request. He's not taking a document
17 that's not related to this case out of
18 his pocket to look at now.

19 RQ MR. NOVIKOFF: All right.

20 We'll make a request for the driver's
21 license.

22 Q. Do you have any other pictures in
23 your home of you, prior to 2005?

24 A. I'm sure there are.

25 RQ MR. NOVIKOFF: Okay. I'm going

1 E. Carter

2 to call for the production of copies of
3 all pictures in your custody,
4 possession or control that would show
5 what your hair looked like prior to
6 2005 going back to the time that you
7 were 21.

8 MR. GOODSTADT: Note my
9 objection, and I'll take it under
10 advisement.

11 Q. Have you seen a doctor concerning
12 the clumps of hair that you say that have
13 left your head?

14 A. No, sir.

15 Q. Do you agree with me that
16 clumps -- that clumps of hair falling out of
17 your head is pretty serious, correct?

18 MR. GOODSTADT: Objection.

19 A. I believe it was due to the
20 stress and that's what I know.

21 Q. My question isn't what it's due
22 to. Would you agree with me that losing
23 clumps of your hair is pretty serious?

24 A. It's serious I guess. Yes.

25 Q. Cause you concern, correct?

1 E. Carter

2 Right?

3 A. Little bit.

4 Q. Little bit? Not a lot?

5 MR. GOODSTADT: Objection.

6 Q. Have you had a history of
7 clumping of hair falling out of your head?

8 A. No.

9 Q. Did you go to a doctor?

10 A. No.

11 Q. Did you seek any type of medical
12 advice concerning why clumps of your hair
13 were falling out?

14 A. No.

15 Q. Okay. When did you retain
16 Mr. Goodstadt's law firm in connection with
17 this Notice of Claim or any aspect of the
18 April 2, 2006 incident?

19 MR. GOODSTADT: Objection.

20 Q. You can answer.

21 A. The summer of 2006.

22 Q. Well, the summer starts in June,
23 correct? What do you mean by "summer"?
24 What months would be contained?

25 A. May or June of 2006.

1 E. Carter

2 Q. Okay.

3 A. June.

4 Q. In relation to June 30, 2006 --

5 A. Yes.

6 Q. When -- how long prior to June
7 30, 2006 did you retain Mr. Goodstadt's law
8 firm?

9 MR. GOODSTADT: Objection.

10 A. I don't recall at this time.

11 Q. Weeks earlier?

12 A. I don't recall without a document
13 in front of me showing.

14 Q. Okay. Would that be -- did you
15 sign a retainer agreement with
16 Mr. Goodstadt's law firm?

17 A. Yes.

18 Q. Okay. Then I'm going to leave a
19 space in the transcript for you to -- well,
20 would that be a document that would refresh
21 your recollection?

22 A. I believe so. Yes.

23 MR. NOVIKOFF: Then I'm going
24 to leave a space in the transcript and
25 ask you to look at that document, and

1 E. Carter

2 to the extent that it refreshes your
3 recollection as to the question I just
4 posed, please fill in the answer.

5 MR. GOODSTADT: Objection.

6 INSERT:

7 Q. How did you come about first
8 meeting Mr. Goodstadt? Now my question is,
9 I don't want to know about anything you said
10 to Mr. Goodstadt. I don't want to know if
11 Mr. Goodstadt called you or if you called
12 Mr. Goodstadt. My question to you is, when
13 did you first learn of Mr. Goodstadt's law
14 firm?

15 A. In the latter part of May, early
16 June of 2006.

17 Q. How did you learn of
18 Mr. Goodstadt's law firm?

19 MR. GOODSTADT: Objection.

20 Q. To the extent it doesn't call for
21 you to advise me of communications between
22 you and Mr. Goodstadt's law firm or any
23 lawyers involved with his law firm.

24 A. While doing a Google search for
25 lawyers, because I felt I had a claim and

1 E. Carter

2 didn't want to use one on the Island, so
3 wound up coming up with Thompson Wigdor &
4 Gilly.

5 Q. Okay. And to your knowledge,
6 were any of the other Plaintiffs looking for
7 lawyers at that time?

8 A. Frank Fiorillo.

9 Q. How do you know that Frank
10 Fiorillo was looking for a law firm at that
11 time?

12 A. Frank Fiorillo got in touch with
13 me and we talked.

14 Q. In relation to when you did the
15 Google search, when did Mr. Fiorillo get in
16 touch with you?

17 A. Approximately a day or so.

18 Q. Prior to the Google search?

19 A. Yes.

20 Q. What did Mr. Fiorillo say to you?

21 A. Well, I actually spoke to --
22 Frank called me because I didn't have his
23 number. I told him about what George had
24 told me and he had gone trying to get a
25 couple jobs trying to secure him, he

1 E. Carter

2 couldn't, and I told him about the phone
3 call about the county park police and Kevin
4 Lamm wound up having problems with the
5 Suffolk County Police, and he said, "You
6 know, this has to end." And that's when we
7 got together.

8 Q. So sometime in May, Mr. Fiorillo
9 and you spoke. Mr. Fiorillo said he had
10 tried to get a few jobs in Suffolk County
11 and he couldn't?

12 MR. GOODSTADT: Objection.

13 Q. Is that the sum and substance?

14 A. He said he tried to get a few
15 jobs, yes.

16 Q. Right. And what jobs did he say
17 he tried to get?

18 A. One was Southampton Town, and
19 another was a driver's job that I don't know
20 where it was.

21 Q. And this was between April 2 and
22 the date in May that you and he spoke?

23 MR. GOODSTADT: Objection.

24 A. The latter part of May, yes.

25 Q. And at that time, had you spoken

1 E. Carter

2 with Mr. Lamm about his job searches?

3 A. Kevin, yes. Kevin wound up --

4 Q. No. Just the answer was yes or
5 no?

6 A. Yes.

7 Q. When did you speak to Mr. Lamm --
8 well, in relation to when you spoke with
9 Mr. Fiorillo in late May, when did you speak
10 to Mr. Lamm concerning his job search
11 efforts?

12 A. I kept in constant touch with
13 Kevin. Kevin was the only one I had the
14 phone number for or I would see.

15 Q. Why did you keep in constant
16 touch with Kevin?

17 A. Kevin was a friend, a good
18 friend.

19 Q. So --

20 A. He was a partner when I was at
21 the beach.

22 Q. So since April 2 -- between April
23 2, 2006 and the end of May, you kept in
24 constant contact with Kevin Lamm?

25 A. Yes. Kevin works for the Town of

1 E. Carter

2 Islip also.

3 Q. Okay. How about Mr. Snyder, did
4 you keep in constant contact with him during
5 that period of time?

6 A. I work with Tom Snyder, yes.

7 Q. So you would have kept in
8 constant contact with him?

9 A. Yes.

10 Q. So you work with Snyder, you work
11 with Lamm?

12 A. Yes.

13 Q. Did you keep in constant contact
14 with Nofi?

15 A. No.

16 Q. Did you keep in constant -- well,
17 okay. That's about it then. And did the
18 five of you meet to discuss hiring the
19 Goodstadt law firm before you ever
20 communicated with Mr. Goodstadt's law firm?

21 MR. GOODSTADT: Or any other
22 law firm.

23 MR. NOVIKOFF: Or any other law
24 firm, yes. That's right.

25 A. We discussed -- I spoke to Tom

1 E. Carter

2 and Kevin personally one on one. I spoke to
3 Frank on the phone. And through, you know,
4 good -- the website and stuff, we felt
5 Mr. Goodstadt's law firm was one that could
6 take -- could help us.

7 Q. Did you ever speak with Nofi
8 prior to -- to your knowledge, how did Nofi
9 know to contact Mr. Goodstadt's law firm?

10 MR. GOODSTADT: Objection.

11 A. I could only say Frank Fiorillo
12 contacted Nofi.

13 Q. Did you ever speak to Nofi about
14 going to meet with Mr. Goodstadt's law firm?

15 A. Only the day we were going to
16 Mr. Goodstadt's law firm.

17 Q. "Standing in the community" you
18 make reference to in paragraph four. What
19 community are you referring to?

20 A. I'm sorry, paragraph four?

21 Q. Yes.

22 A. Standing in the community would
23 be my position as a father and as a park
24 ranger. I heard, you know, my reputation
25 was damaged. It was defamed.

1 E. Carter

2 Q. Well, sir, my question to you is,
3 what community are you referring to when you
4 say "standing"?

5 A. My personal community.

6 Q. And what does that mean when you
7 say "personal"?

8 A. My family. My friends. How they
9 look at me. The people walking down the
10 street.

11 Q. So is it your testimony that your
12 family looks upon you worse today than they
13 did on April 2?

14 A. They originally questioned me,
15 yes, as to when this stuff was in the paper
16 about the Gilbert thing and stuff.

17 Q. Who is "they"?

18 A. My mother.

19 Q. Your mother questioned you?

20 A. Yes.

21 Q. What did she say?

22 A. She said, "What's going on? You
23 were fired from the beach. We just saw this
24 other stuff in the paper not too long ago.
25 You said you weren't involved. What

1 E. Carter

2 happened?"

3 Q. So your -- do you think your
4 mother thinks less of you today than she did
5 on April 2?

6 MR. GOODSTADT: Objection.

7 A. I couldn't answer that.

8 Q. Is there anything she's done to
9 indicate that she thinks less of you?

10 A. No.

11 Q. Is there anything that you could
12 point to that makes you believe that your
13 standing in your mother's eyes is less today
14 than it was on April 2, 2006?

15 A. No.

16 Q. How about your wife, anything
17 that you could point to today that makes you
18 think that your standing in her eyes is less
19 today than on April 2, 2006?

20 A. Just the anguish and stuff we're
21 going through with day-to-day with like I
22 said, the blog postings and stuff. She got
23 very, very upset and annoyed when she saw my
24 name where I worked and stuff was posted on
25 there.

1 E. Carter

2 MO MR. NOVIKOFF: Motion to
3 strike.

4 Q. Is there anything that you can
5 point to that you believe shows -- well,
6 you know what, let me ask you this question,
7 in your opinion, has your standing with your
8 wife decreased since April 2, 2006?

9 MR. GOODSTADT: Objection.

10 A. A little bit, yes.

11 Q. A little bit. She thinks less of
12 you?

13 A. I believe so.

14 Q. Okay. What about your children,
15 how old are they?

16 A. My daughter's five and the boys
17 are two and a half.

18 Q. Your friends, what friends have
19 you lost outside of perhaps police officers
20 as a result of you being told, on April 2,
21 2006, that you're not working at Ocean
22 Beach?

23 A. None.

24 Q. Has any friend of yours told you
25 that they think less of you as a result of

1 E. Carter

2 you not being rehired on April 2, 2006?

3 A. No.

4 Q. Now let's go to your employment
5 with Ocean Beach for a while. You were --
6 well, beginning in 2001, you were a
7 part-time worker, correct?

8 A. Seasonal from May to September,
9 and then a part-time police officer from
10 September to May.

11 Q. Okay. So it's seasonal during
12 the summer months and then after Labor Day
13 it's part time?

14 A. Yes.

15 Q. Explain the difference.

16 A. Difference is is between May and
17 September, per Civil Service Law, you can
18 work 40 hours or more a week. I guess more
19 a week. And after September, Labor Day or
20 sometime whatever stipulation is exactly in
21 the book to May, it would be 20 hours a
22 week. Half of a full timer.

23 Q. Okay. My question to you is were
24 you a -- during the summer months, before --
25 between Memorial Day -- well, between April

1 E. Carter

2 and Labor Day, were you a full-time worker
3 or a seasonal worker?

4 MR. GOODSTADT: Objection.

5 Q. To the best of your knowledge?

6 A. Seasonal.

7 Q. Okay. And what is your
8 understanding of what "seasonal" means?

9 MR. GOODSTADT: Objection.

10 Q. To the extent you know?

11 A. Seasonal is I can work 16 hours a
12 week.

13 Q. Okay. You could work 16 hours a
14 week as a seasonal?

15 A. Well, it's 20 -- I believe it
16 states 20. Half of 40 is 20, but the way
17 the tours were, 16 hours a week.

18 Q. I didn't get that last part.

19 A. A full timer could work 40 hours
20 a week, so it would be half of what they
21 could do.

22 Q. Okay. So the most you could
23 work, to your knowledge --

24 A. Is 20 hours.

25 Q. Is 20 hours during the --

1 E. Carter

2 A. Off season.

3 Q. During the off -- no. No. I'm
4 talking that's when you were a part-time
5 worker?

6 A. Yes.

7 Q. That's after Labor Day? Yes?

8 A. Yes.

9 Q. My question, though, is between
10 April and Labor Day, what's your
11 understanding of what "seasonal" means?

12 MR. GOODSTADT: Objection.

13 A. Seasonal was you worked
14 approximately -- you could work up to 40
15 hours a week or more.

16 Q. Now you didn't have a contract
17 with Ocean Beach, did you?

18 A. No.

19 Q. And every year you had to be
20 rehired, correct, to be a seasonal worker,
21 correct?

22 MR. GOODSTADT: Objection.

23 Q. To your knowledge?

24 A. I didn't have to be rehired.

25 Q. No?

1 E. Carter

2 A. I handed a 42 -- 2042 in and gave
3 them the hours I could work, and the chief
4 or George, whoever it was, would put you on
5 the schedule.

6 Q. What's a 2042?

7 A. You have a copy of one right
8 there in front of you (indicating).

9 Q. Okay. Well, just tell me what it
10 is.

11 A. It's an internal memo.
12 Correspondence.

13 Q. So if I understand correctly,
14 before every season -- well, just so we're
15 all clear and we're all talking about the
16 same thing, what was the season, to your
17 knowledge?

18 A. Memorial Day to Labor Day,
19 roughly. April -- it was the end of April,
20 so April to Labor Day.

21 Q. Okay. So if I understand your
22 testimony correctly, what you would do,
23 since 2001, was send someone over at Ocean
24 Beach a 2042 indicating when you could work,
25 and then they would just put you on the

1 E. Carter

2 schedule?

3 A. My hours of availability is what
4 it was basically.

5 Q. Okay. So you controlled, for the
6 most part, what hours you worked during the
7 season?

8 A. The only -- I put in what tours I
9 was available for. I didn't get them all.

10 Q. Right.

11 A. I got -- it was split up among
12 the men --

13 Q. Right.

14 A. -- by the supervising officer.

15 Q. Now there were officers that
16 worked during the day, correct?

17 A. Yes.

18 Q. But you couldn't work during the
19 day because you had a full-time job,
20 correct?

21 A. Yes.

22 Q. So you would put in -- what tours
23 would you normally put in for?

24 MR. GOODSTADT: Objection.

25 A. For Ocean Beach?

1 E. Carter

2 Q. Yes.

3 A. I put in -- I was off -- whatever
4 my days off were, I would put in for either
5 a 4:00 to 12:00 -- there was a 9:00 --
6 there was about 20 different tours just to
7 make you aware of it.

8 Q. Okay.

9 A. I would put in for 4:00 at night
10 to 12:00 at night, 6:00 at night to 2:00 in
11 the morning, 8:00 at night to 4:00 in the
12 morning. There was a 9:00 at night to 5:00
13 in the morning, or a midnight to 8:00.

14 Q. Okay. So if I understand now,
15 and just tell me if I'm wrong, on your days
16 off, for your days off from your full-time
17 job, you would notify Ocean Beach, whoever
18 made the decisions, as to what tours you
19 wanted to work on, and then Ocean Beach,
20 whomever it was, would advise you as to what
21 tours you got based upon your availability?

22 A. Basically, yes.

23 MR. NOVIKOFF: Now let's look
24 at -- let's mark the following document
25 as Carter-3.

1 E. Carter

2 (Internal correspondence dated

3 December 6, 2005 was marked as

4 Carter Exhibit-3 for identification;

5 9/16/08, E.L.)

6 Q. Carter-3 appears to be a memo

7 from you to Sergeant Hesse dated December 6,

8 2005, do you see that?

9 A. Yes, sir.

10 Q. Do you recall sending this doc --

11 this internal correspondence to Sergeant

12 Hesse?

13 A. Yes.

14 Q. Okay. You CC'd Chief Paridiso,

15 do you see that?

16 A. Yes.

17 Q. Now what was your knowledge as to

18 Mr. Paridiso's status at this time?

19 MR. GOODSTADT: Objection.

20 Q. On December 6, 2005?

21 MR. GOODSTADT: Same objection.

22 A. That he was still doing the --

23 he was still overseeing -- out of respect,

24 I did it for Chief Paridiso is what I did.

25 Q. What do you mean "out of

1 E. Carter

2 respect"?

3 A. Being that -- my understanding
4 was he was still with the department.

5 Q. Well, what would make you think
6 that he wasn't, if anything, prior to
7 December 6?

8 A. He was on disability leave.

9 Q. When did you first learn he was
10 on disability leave?

11 A. That was the summer of 2005. But
12 he was still doing the schedule. And at
13 that point, I wasn't sure who was doing the
14 schedule.

15 Q. You just said that "but he was
16 still doing the schedule, and at that point,
17 I wasn't sure who was doing the schedule"?

18 A. Yes.

19 Q. That seems to be an
20 inconsistency, sir.

21 MR. GOODSTADT: Objection.

22 Q. What did you mean? What was your
23 knowledge as to who was doing the schedule
24 on December 6, 2005?

25 A. I -- I'm not sure, to be honest

1 E. Carter

2 with you.

3 Q. Okay. What makes you think
4 Mr. Paridiso was still doing the schedule?

5 MR. GOODSTADT: Objection.

6 A. Because guys said he would come
7 in and hang it up prior to that. But I
8 never -- being it was in the winter, I
9 didn't see many guys, so I don't know.

10 Q. When did guys tell you Paridiso
11 was still coming in to do the schedule?

12 A. The -- September of '05.

13 Q. So you weren't CCing Mr. Paridiso
14 out of respect, you were CCing Mr. Paridiso
15 because you were not aware as to who was
16 doing the schedule, correct?

17 MR. GOODSTADT: Objection.

18 A. Yes.

19 Q. Okay. And this memo is you
20 telling Sergeant Hesse and Mr. Paridiso that
21 you were unavailable for the three tour on
22 January 15, 2006, do you see that?

23 A. Yes.

24 Q. What's the three tour?

25 A. That would be the midnight tour.

1 E. Carter

2 Q. Okay. And December 6, 2005 --

3 I'm sorry, January 15, 2006 was not part of
4 the season as you've defined that, is it?

5 A. Correct.

6 Q. And tell me if I'm wrong, but you
7 would advise Ocean Beach as to when you were
8 available off season and they would
9 determine whether or not they would schedule
10 you for that particular tour?

11 MR. GOODSTADT: Objection.

12 A. Approximately a year prior, yes.

13 Q. A year prior?

14 A. Back in April of 2005.

15 Q. I don't understand your answer.

16 A. In other words, April 2005 I put
17 in this -- an internal correspondence with
18 the tours I was available for.

19 Q. Right.

20 A. Not knowing that something would
21 come up January 15. So I notified them a
22 month prior, more than a month prior that
23 I'd be unavailable for that tour. To please
24 replace me.

25 Q. So when you said you put in that

1 E. Carter

2 2014, am I right?

3 A. 2042.

4 Q. The 2042 prior to April of a
5 given season, you were advising them of your
6 availability after the season as well?

7 A. Yes.

8 Q. Okay.

9 A. Basically I had steady days off.
10 At this point, I believe, best of my
11 recollection, I worked Sunday night midnight
12 and Monday night midnight.

13 MR. NOVIKOFF: And let's mark
14 the following document as Carter-4.

15 (Internal correspondence dated
16 January 23, 2006 was marked as
17 Carter Exhibit-4 for identification;
18 9/16/08, E.L.)

19 Q. Do you recall -- well, Carter-4
20 for the record is a memo from you to
21 Sergeant Hesse with a CC to Chief Paridiso
22 dated January 23, 2006, do you see that?

23 A. Yes.

24 Q. And do you recall sending this
25 correspondence to Ocean Beach?

1 E. Carter

2 A. I actually left it on Sergeant
3 Hesse's desk.

4 Q. Okay. And you CC'd Mr. Paridiso
5 why?

6 A. Because he could still come back
7 as the chief. He wasn't out on full
8 workmen's comp yet.

9 Q. How do you know that?

10 A. Because I had seen it not too
11 long before that, and there was -- the talk
12 between George was he was still out on comp.

13 Q. The talk as between?

14 A. George said the chief was still
15 out on workmen's comp.

16 Q. Oh, so you had seen George, you
17 hadn't seen Mr. Paridiso?

18 A. I ran into Ed Paridiso at Costco,
19 yes.

20 Q. Between your December Carter-3
21 and your January Carter-4, you saw Ed
22 Paridiso?

23 A. To my best of my recollection,
24 yes.

25 Q. Did you ask him if he was

1 E. Carter

2 involved in the scheduling when you saw him?

3 A. No, I didn't.

4 Q. Did you -- did your knowledge of
5 whether or not Mr. Paridiso was involved in
6 the scheduling change between Carter-3 and
7 Carter-4?

8 A. No. I still put him in to CC
9 Chief Paridiso, so.

10 Q. Okay.

11 A. It was still my belief he was
12 still there.

13 Q. Okay. And according to Carter-4,
14 you're advising Ocean Beach that given the
15 birth of your twins, you wanted to be
16 removed from the duty roster between
17 February 12 and April 9, 2006, do you see
18 that?

19 A. Correct.

20 Q. Okay. Would it be fair to say
21 that between those dates, you did not work
22 for Ocean Beach?

23 A. I don't recall if I worked
24 February 14, one other day, because George
25 tried to talk me out of taking this family

1 E. Carter

2 leave. He said -- I explained to him that I
3 didn't want to get stuck at the beach
4 because the way the vehicles were breaking
5 down, that if my wife went into labor, I
6 didn't want to be stuck over here and being
7 the fact I had twins, I had my daughter who
8 was at that time three years old, and he
9 says, "Eddie," he goes, "Listen," he goes,
10 "I'll come over, pick you up and drive you."
11 So I don't recall if I worked -- my last day
12 of work was February 12 or February 14 of
13 2006. I don't recall.

14 Q. Did Mr. Hesse advise you as to
15 why he was going to go out of his way to
16 pick you up so that you could work during
17 that period of time?

18 A. So my wife -- if the truck broke
19 down, I didn't get stuck at the beach.

20 Q. Did you have a good relationship
21 with Mr. Hesse on or -- in or about January
22 23, 2006?

23 A. I had a fair relationship with
24 him, yes.

25 Q. Was he -- would you consider him

1 E. Carter

2 a friend?

3 A. I thought he was.

4 Q. Okay. Even though he told you to
5 shut up on occasion and disregarded your
6 complaints?

7 A. Yes.

8 Q. Okay. Did you ever socialize
9 with Mr. Hesse outside of -- well, did you
10 ever socialize with Mr. Hesse after your
11 work hours?

12 A. No.

13 Q. And did Mr. Hesse explain to you
14 why he tried to talk you out of taking this
15 family leave that you referred to?

16 A. He just -- no. He said, "Why
17 don't you keep working." You know,
18 "don't -- I need you to work, and keep
19 working."

20 Q. Okay. Let's go back to the
21 Notice of Claim. I believe that's
22 Exhibit-1. You write on page two, second
23 full sentence, "in further retaliation for
24 Claimant's opposition, both during
25 Claimant's employment and subsequent to the

1 E. Carter
2 unlawful termination of his employment,
3 defamatory statements have been made about
4 Claimant, both verbally and in writing on
5 the internet, in other media and to others."
6 Okay. Who, without telling me where or what
7 they said, who do you claim, in this
8 lawsuit, has made defamatory statements
9 about you?

10 A. George Hesse.

11 MR. GOODSTADT: objection.

12 A. George Hesse.

13 Q. Anybody else that you claim to
14 have made a defamatory statement about you?

15 MR. GOODSTADT: objection.

16 A. Tyree Bacon.

17 Q. Okay. Other than Tyree Bacon and
18 George Hesse, anybody else?

19 MR. GOODSTADT: Objection.

20 A. NO.

21 Q. Okay. When did Tyree Bacon make
22 defamatory statements about you?

23 A. On the blog April 6.

24 Q. Okay. April 6 of 2006?

25 A. I believe it was April 6 of 2006,

1 E. Carter

2 yes.

3 Q. Was that the only occasion that
4 you can point to where Tyree Bacon has made
5 a defamatory statement about you that you're
6 aware of?

7 A. That -- with the posting of the
8 blog, if you were to look at it, it falls
9 down to specific -- a form basically of
10 writing and it follows it straight through.

11 Q. Well, my question to you, you've
12 identified, sir, April 6, 2006 as an
13 incident where Tyree Bacon defamed you?

14 A. Yes.

15 Q. On the blog?

16 A. Um-hum.

17 Q. How do you know on April 6, 2006
18 Tyree Bacon was the author of the alleged
19 defamatory statement that you've just
20 referenced?

21 A. I believe in the statement that
22 George Hesse told Tom Snyder, that Tom
23 Snyder told me.

24 Q. Okay. So your knowledge of
25 Mr. Bacon's defamatory statement on April 6

1 E. Carter

2 2006 is based on what Hesse told Snyder and
3 what Snyder told you?

4 A. Yes.

5 Q. Okay. So we now have the April
6 6, 2006 defamation. Actually, what was the
7 defamatory comment that you attribute to --
8 that you attribute to Mr. Bacon?

9 A. That I did official misconduct
10 and falsified paperwork in reference to a
11 Halloween incident.

12 Q. Okay. Now have you been fired
13 from any job as a result of Mr. Bacon's
14 alleged defamatory comment?

15 A. No.

16 Q. Has anyone advised you that you
17 did not get any employment as a result of
18 Mr. Bacon's alleged defamatory comment on
19 April 6, 2006?

20 A. The guys in my work in the locker
21 room said, in reference to the blog with my
22 promotion, which was offered to me
23 provisionally prior to me taking the test,
24 that I wasn't going to get it until that
25 whole thing with Ocean Beach was taken care

1 E. Carter

2 of.

3 MO MR. NOVIKOFF: Motion to
4 strike.

5 Q. Sir, my question's very specific.
6 Has anyone advised you that you did not get
7 a promotion or an employment opportunity
8 directly resulting from what you claim to be
9 Mr. Bacon's alleged defamatory statement on
10 April 6, 2006?

11 MR. GOODSTADT: Objection. He
12 just testified to it.

13 Q. Did anyone tell you specifically
14 that?

15 MR. GOODSTADT: Objection. He
16 just testified to it.

17 MR. NOVIKOFF: I understand.
18 You can answer.

19 A. No.

20 Q. Okay. Now let's put aside the
21 April 6, 2006 alleged defamation of
22 Mr. Bacon. Subsequent to that date, can you
23 point to another date on the blog in which
24 Tyree Bacon allegedly defamed you?

25 MR. GOODSTADT: Objection.

1 E. Carter

2 A. I can't be 100 percent sure it
3 was him or not.

4 Q. Why can't you be 100 percent sure
5 that it was him or not?

6 A. Because the blog is an anonymous
7 blog. Except for Tom Snyder is the only one
8 I can go right back to.

9 Q. Now let's talk about Mr. Hesse's
10 alleged defamatory statements. How many
11 defamatory statements do you attribute to
12 Mr. Hesse?

13 MR. GOODSTADT: Objection.

14 A. The firing of me would be one.
15 Why he told me at the meeting for
16 directives, failing to follow directives
17 posted. Wearing a wire. Sleeping. So
18 three.

19 MR. NOVIKOFF: Okay. Let's
20 take a break. We have one minute left
21 on the tape. We'll come back and we'll
22 pick it up there.

1 E. Carter

2 (A break was taken.)

6 Q. Mr. Carter, you identified before
7 the ending of tape number two, three alleged
8 defamatory comments from Mr. Hesse
9 concerning you. One involved directives,
10 one involved wearing a wire, and one
11 involved you sleeping on duty, do you recall
12 that?

13 A. Yes.

14 MR. GOODSTADT: objection.

15 Q. Have you had a chance -- is there
16 anything else that you can recall that
17 Mr. Hesse said that you believe was
18 defamatory, other than what you've just
19 identified?

20 MR. GOODSTADT: Objection.

21 A. Not that I recall at this time.

22 Q. Okay. Is there anything in your
23 possession, custody or control that would
24 refresh your recollection?

25 A. Not at this time.

1 E. Carter

2 Q. Okay. Let's talk about the
3 alleged defamatory statement concerning
4 directives. What specifically -- and don't
5 tell me to whom and don't tell me what or
6 where -- but just tell me what specifically
7 did Mr. Hesse say concerning directives that
8 you believe was defamatory?

9 MR. GOODSTADT: Objection.

10 A. He -- he wouldn't talk to me
11 about them when he fired me. I asked him.
12 I said, "What directives are you talking
13 about?" And he wouldn't give me an answer.

14 Q. Okay. I guess my question -- not
15 I guess -- my question is, what specifically
16 did Mr. Hesse say regarding directives that
17 you believe was defamatory?

18 MR. GOODSTADT: Objection.

19 A. He fired me for something I
20 didn't do. I followed those directives.

21 Q. Okay. So your belief is that
22 Mr. Hesse made a defamatory comment to you
23 when he fired you for directives?

24 MR. GOODSTADT: Objection.

25 A. Yes.

1 E. Carter

2 Q. Okay. Now where did Mr. Hesse
3 make this defamatory statement?

4 A. In the boathouse at Ocean Beach.

5 Q. When?

6 A. April 2, 2006.

7 Q. Was there anyone present when
8 Mr. Hesse made this defamatory statement
9 concerning directives?

10 A. To me, no.

11 Q. Okay. So just so I understand,
12 when you say that Mr. Hesse made a
13 defamatory comment regarding directives,
14 you're referring to a statement that
15 Mr. Hesse made to you in the boathouse on
16 April 2, 2006 without any other witnesses?

17 A. Yes.

18 Q. Okay. Let's talk about wearing a
19 wire. Again, not where, when or how, just
20 what specifically did Mr. Hesse say
21 concerning wearing a wire that you believe
22 was defamatory?

23 A. I wasn't going to wear a wire. I
24 knew nothing about a wire. I was never
25 approached. I was never asked.

1 E. Carter

2 MO MR. NOVIKOFF: I understand
3 that, and I'm going to move to strike.

4 Q. But what specifically -- well,
5 let me take a step back. You've alleged
6 that Mr. Hesse made a defamatory statement
7 concerning you involving wearing a wire?

8 A. Yes.

9 Q. What specifically did Mr. Hesse
10 say concerning wearing a wire that you
11 believe was defamatory?

12 MR. GOODSTADT: Objection.

13 A. The fact that if I was to wear a
14 wire, meant I was a rat, and I'm not.

15 Q. What, though, did Mr. Hesse say
16 to you when you referred to wearing a wire?

17 MR. GOODSTADT: Objection.

18 A. He didn't say it to me. He said
19 it to the other officers at the meeting.

20 Q. Okay then. Now what did he say
21 to the other officers at this meeting that
22 you've just referred to?

23 A. That -- it was the April 2
24 meeting of 2006. That Arnold Hardman's
25 attorney said that somebody was going to

1 E. Carter

2 wear a wire and it was going to be Ed and
3 Tom, and we were going to get the officers
4 to admit that they beat up the businessman,
5 Gilbert, for the District Attorney's office.

6 Q. Okay. So this meeting took place
7 where?

8 A. The boathouse.

9 Q. And you weren't present at this
10 meeting?

11 A. I was fired already. Terminated.
12 Left the Island.

13 Q. You had -- you had gone from the
14 Island by this time?

15 A Yes

16 Q. And according to somebody at that
17 meeting, Mr. Hesse said that Arnold
18 Hardman's attorney said that you were going
19 to wear a wire?

20 A. That somebody was going to wear a
21 wire, and George said it was me or Tom
22 Snyder.

23 Q. Okay. So I just want to
24 understand now what transpired. Mr. Hesse
25 said to someone at this meeting that Arnold

1 E. Carter

2 Hardman's attorney said that someone was
3 going to wear a wire, and then George added
4 that it was going to be you and Ed, is that
5 a fair characterization?

6 A. No.

7 Q. No.

8 A. Ed and Tom.

9 Q. Ed and Tom.

10 A. Ed and Tom were going to wear the
11 wire. And he said it to all the officers
12 that were present at the meeting, along with
13 the dispatchers and any dock masters that
14 were there.

15 Q. So to your knowledge, did
16 Mr. Hesse say that you had worn a wire or
17 did Mr. Hesse say that you were going to
18 wear a wire?

19 A. I was going to wear a wire.

20 Q. Okay. And who told you that
21 Mr. Hesse said this?

22 A. Originally, Kevin Lamm told me
23 that Chris Moran said it, and I heard Chris
24 Moran later in June of 2006 say it.

25 Q. Okay. So you learned of this

1 E. Carter

2 alleged defamation in one instance from
3 Mr. Lamm, who told you that Mr. Moran said
4 that George Hesse said this?

5 A. Yes.

6 Q. And on the other instance you
7 learned about this alleged defamatory
8 statement, you heard it directly from
9 Mr. Lamm?

10 A. Directly from Mr. Moran.

11 Q. From Mr. Moran.

12 A. Yes.

13 Q. Was that in a face-to-face
14 conversation?

15 A. No.

16 Q. Was it on a telephone call?

17 A. Kevin was on a telephone call.

18 Q. With whom?

19 A. On speaker with Chris Moran.

20 Q. And you were present?

21 A. Yes.

22 Q. Did Mr. Lamm tape this
23 conversation?

24 A. Yes.

25 Q. Were you aware that Mr. Lamm was

1 E. Carter

2 taping this conversation?

3 A. Yes.

4 Q. Where did you -- where did
5 Mr. Lamm -- where was the speaker phone
6 present?

7 A. It was a Nextel. One of those
8 Nextels.

9 Q. So you were right next to
10 Mr. Lamm when he was doing this?

11 A. Yes.

12 Q. And where were you and Mr. Lamm?

13 A. In Ronkonkoma.

14 Q. Where in Ronkonkoma?

15 A. By the airport.

16 Q. Why?

17 MR. GOODSTADT: Objection.

18 Q. Why were you with Mr. Lamm on
19 this occasion in June?

20 A. I stopped up at work. It's part
21 of my patrol, the airport, and I met up with
22 Kevin, and he said he was about to call
23 Chris.

24 Q. So you and Mr. Lamm were working
25 at that time?

1 E. Carter

2 A. I was, yes.

3 Q. Was Mr. Lamm working?

4 A. To the best of my knowledge, yes.

5 Q. So you both were working for the
6 Town of Islip, and Mr. Lamm advised you that
7 he was going to call Mr. Moran?

8 A. Yes.

9 Q. Did Mr. Lamm tell you why he was
10 going to call Mr. Moran?

11 A. That Chris had called him and he
12 was going to call him back, and he said, "Do
13 you want me to ask him why you were let go
14 again?" And I said, "Sure."

15 Q. And did Mr. Lamm tell you that he
16 was going to be recording Mr. Moran?

17 A. No.

18 Q. Did -- were you aware that
19 Mr. Lamm was recording Mr. Moran in his
20 conversation?

21 A. At that point, I saw a tape
22 recorder. I didn't know if it was on or
23 not.

24 Q. So Mr. Lamm had his Nextel phone
25 in one hand and a tape recorder in another?

1 E. Carter

2 A. No. The tape recorder was on a
3 center console of the vehicle.

4 Q. Oh, you were in a car?

5 A. Yes.

6 Q. What type of tape recorder was
7 it?

8 A. A thin one (indicating). Silver
9 in color.

10 Q. A little dictaphone?

11 A. If that's what they're called,
12 yes.

13 Q. And you saw it?

14 A. Yes.

15 Q. And you assumed that he was
16 taping it?

17 A. I found out later on he was
18 taping it, yes.

19 Q. Well, did you ask Mr. Lamm at
20 that time why there was a tape recorder on
21 the console?

22 A. No.

23 Q. Did you see that it was on or
24 not?

25 A. No.

1 E. Carter

2 Q. Did you see Mr. Lamm go to turn
3 it on?

4 A. No.

5 Q. Did Mr. Lamm tell Mr. Moran that
6 he was being taped?

7 A. No. Not that I recall.

8 Q. Was that the only occasion that
9 you're aware of that Mr. Lamm was taping
10 telephone conversations?

11 A. No.

12 Q. Was that the first time -- well,
13 let's -- before I go there, when did you
14 learn that Mr. Lamm had tape recorded that
15 conversation with Mr. Moran?

16 A. Afterwards. Shortly afterwards.
17 I don't recall exactly when.

18 Q. Seconds? Minutes? Weeks?
19 Months?

20 A. I don't recall at this time.

21 Q. How? How did you learn?

22 A. Because he had to get the
23 recording to a disc.

24 Q. Yeah, but how did you learn
25 Mr. Lamm had recorded that conversation?

1 E. Carter

2 A. He told me he did after. You
3 know, I don't know if it was exactly then or
4 if it was later on.

5 Q. And prior to that conversation
6 with Mr. Moran, were you aware that Mr. Lamm
7 was telephone -- was recording telephone
8 conversations with other individuals?

9 MR. GOODSTADT: Objection.

10 A. No.

11 Q. No?

12 A. No.

13 Q. When did you learn that Mr. Lamm
14 had tape recorded other conversations, other
15 than the one that you were involved in?

16 A. June of '06.

17 Q. What did Mr. Lamm say to you, if
18 anything?

19 A. He needed to have the tape
20 recordings put on a disc, and I didn't -- I
21 couldn't do it.

22 Q. Did Mr. Lamm tell you why he was
23 tape recording conversations?

24 A. For the defamation. We all felt
25 that defamation was the biggest thing was me

1 E. Carter

2 wearing a wire. That when a park ranger
3 three position did come up for me, I wanted
4 to know why I was let go, so I could tell my
5 boss the true reason, rather than what I had
6 to tell him a couple of days after, that I
7 was let go for directives that were hanging
8 on the board that I didn't know what I was
9 fired for.

10 Q. So you had asked Mr. Lamm to tape
11 record the conversations?

12 MR. GOODSTADT: Objection.

13 A. No.

14 Q. So let me understand this
15 correctly -- let me ask you this question,
16 did Mr. Lamm advise you as to why he was
17 tape recording conversations? Not why you
18 think it was being done. Did Mr. Lamm tell
19 you why he was tape recording conversations?

20 A. No.

21 Q. Did you ask Mr. Lamm to tape
22 record conversations?

23 A. No.

24 Q. So when you answered just before
25 about wanting to know why you were fired,

1 E. Carter

2 what did that have to do with why Mr. Lamm
3 was tape recording a conversation?

4 MR. GOODSTADT: Objection.

5 A. Later on, when we had talked --
6 again, I don't know if it was right then and
7 there or if I had to go -- he said, "See,
8 that's why you were let go, for wearing a
9 wire." And I said, "Unbelievable." I said,
10 you know, "reason number three now."

11 Q. Okay. So let me get this
12 straight. Based upon a tape recorded
13 conversation between Mr. Lamm and Mr. Moran,
14 wherein Mr. Moran said that George Hesse
15 back in April said something about you
16 wearing a wire, you concluded that that was
17 why you were fired?

18 MR. GOODSTADT: Objection.

19 A. I felt that was a big reason why
20 I was fired, because originally, I was
21 misID'd as being part -- as being on the
22 night of the Gilbert incident and that
23 caused a lot of problems.

24 Q. When were you misID'd as being
25 part of the Gilbert incident?

1 E. Carter

2 A. Back sometime 2005.

3 Q. Where were you misID'd?

4 A. Someone told the District
5 Attorney's office I was working that night.

6 Q. Who told the District Attorney's
7 office?

8 A. George Hesse told me it was Dave
9 Gerden.

10 Q. So George Hesse told you that
11 this guy Dave told the District Attorney's
12 office that you were mis -- that you were
13 part of the Gilbert incident?

14 MR. GOODSTADT: Objection.

15 Q. Is that your testimony?

16 A. That he gave a statement, yes, or
17 a verbal that I was -- yeah, I was there
18 that night.

19 Q. And you believe that that
20 misidentification contributed to you being
21 fired, you not being rehired?

22 MR. GOODSTADT: Objection.

23 A. That caused -- yes. Absolutely.

24 Q. What -- what connection do you
25 see between the two?

1 E. Carter

2 A. It started in the fall of 2006,
3 District Attorney's office started
4 interviewing people with reference to the
5 Gilbert incident. They came to me twice and
6 I had Gray -- the attorney for the beach,
7 Gray come to my house. They called me at
8 my -- they came the first time. Asked me a
9 bunch of questions, which I didn't
10 understand what they were asking me, and
11 they said they had information that I was
12 working that night. I said I wasn't. It
13 was my daughter's birthday. I had a party
14 in the yard and I don't work Saturday
15 nights.

16 Little time later, short time
17 later, I don't recall if it was a couple
18 days, a week, they said they were going to
19 interview other people. They -- the
20 investigator, Tom Iacopelli, called me at my
21 town job. You got the secretary. The boss
22 is there. She looks at me, she goes,
23 "District Attorney's office is on the phone
24 for you." I picked the phone up. He says,
25 "Carter, I need to speak to you. We're

1 E. Carter

2 coming to your house tomorrow." I said,
3 "No, you're not." He said, "What do you
4 mean?" I said, "There was a 2042, an
5 internal correspondence put out that the
6 village attorney has to be present for any
7 conversations with you. And I don't want to
8 be fired. I need the job. I need the
9 money."

10 So he says, "Well, you spoke to
11 us in the past. Why don't you speak to us
12 now." I said, "You spoke to us first." I
13 said, "Listen, I don't need to lose my job."
14 I said, "I'm going to call." So I
15 immediately called George Hesse, who set an
16 appointment up with the attorney for the
17 beach at the time. I believe he was called
18 "Gray." He showed up at my house the next
19 day.

20 And that's when guys started
21 looking at me funny like I was talking to
22 the District Attorney's office. I was rat.
23 Again, I'm labeled as a rat. And I told
24 George, I said, "I had nothing -- you, know,
25 I wasn't there." He said, "I know you

1 E. Carter

2 weren't there, but what are you going to
3 do."

4 So the range comes around
5 November of 2005. We meet at Stop & Shop in
6 East Islip. There's approximately 10 guys.
7 We're all going out to the range together.
8 10 -- maybe it was even more, 15 of us. I
9 walk up and the guy Dave says to me, "Oh,
10 the District Attorney's office talk to ya?"
11 And I looked and I said, "Dave, I wasn't
12 working that day." And at that time, the
13 other guys said, "Dave, he wasn't working
14 that day." It was the first time that it
15 came out three months later, two months
16 later that I wasn't working that day.

17 And subsequently, the District
18 Attorney's office never spoke to me again,
19 but George Hesse, in between that time, said
20 to me, "I don't understand why they keep
21 talking to you. I don't know why." And the
22 guys started looking at me funny.

23 Q. Well, no, you testified that the
24 guys were looking at you funny before
25 Mr. Hesse said that to you about why are you

1 E. Carter

2 working, correct?

3 A. That was between September --
4 between the Gilbert thing and then with the
5 District Attorney's office first came over.

6 Q. Mr. Hesse didn't misidentify you,
7 did he?

8 A. Him, no.

9 Q. Right. Mr. Hesse didn't advise
10 anyone prior to April 2, 2006 that you were
11 wearing a wire, did he?

12 MR. GOODSTADT: Objection.

13 Q. To your knowledge?

14 A. To my knowledge, no. Not that I
15 know of.

16 Q. Mr. Hesse, prior to April 2,
17 2006, didn't tell anyone, to your knowledge,
18 that you were cooperating with the DA,
19 correct?

20 A. To my knowledge, no.

21 Q. In fact, to your knowledge --
22 withdrawn. So what -- explain to me how you
23 attribute your termination -- I'm sorry,
24 withdrawn. How do you attribute you not
25 being rehired on April 2, 2006 to this

1 E. Carter

2 misidentification of you that Mr. Hesse had
3 nothing to do with?

4 MR. GOODSTADT: Objection.

5 A. Mr. Hesse being the senior
6 officer at that scene that night, could have
7 very easily taken care of it and explained.
8 Showed the blotter, the records that I
9 wasn't there.

10 O. How do you know he didn't?

11 A. He never said he did.

12 O. Did you ask him?

13 A. I said to him, I said "George" --
14 my exact words to him was, "This is pretty
15 sad. I can't prove that I wasn't working
16 that night."

17 Q. What do you mean you can't prove?
18 Didn't the records show you weren't working
19 that night?

20 A. The District Attorney's office
21 originally said, in my house, with Gray
22 sitting there, that I could falsify the
23 blotter or my time sheets.

24 Q. Oh, so it was the DA that didn't
25 necessarily believe, in your opinion, what

1 E. Carter

2 was put on the time sheets, correct?

3 A. I'm not -- yes.

4 Q. Right. My question to you is,
5 what makes you think that George Hesse
6 didn't tell the DA that you didn't work that
7 night?

8 A. He never said he did.

9 Q. But did you ask him?

10 A. No.

11 Q. What makes you think that the DA
12 didn't believe that in fact you didn't work
13 that night?

14 A. What makes me believe -- I'm
15 sorry, repeat the question.

16 Q. What makes you believe -- I'll
17 withdraw the question. I'm just trying to
18 figure out what did Mr. Hesse say concerning
19 this misidentification prior to April 2,
20 2006 that you believe resulted, in part, in
21 you not being rehired by Ocean Beach?

22 A. I'm sorry, we're talking about
23 the wire, is what we were talking about.

24 Q. No. We were talking about -- you
25 said this misidentification of you being

1 E. Carter

2 involved in the Gilbert incident was a
3 reason, in your opinion, why you weren't
4 rehired. So my question to you is, what did
5 Mr. Hesse do with regard to this
6 misidentification that you believe resulted
7 in a decision concerning you not being
8 rehired on April 2, 2006?

9 MR. GOODSTADT: Objection.

10 Q. You can answer.

11 A. The wire's what started this, and
12 then I went to explain how it came about,
13 the wearing of the wire. That somebody was
14 going to wear the wire. I was supposedly
15 cooperating with the District Attorney's
16 office because he came to my house twice.
17 No one else apparently at that point was
18 seen twice.

19 Q. So the misidentification had
20 nothing to do with you being terminated, is
21 that your testimony?

22 MR. GOODSTADT: Objection.

23 Q. Let me ask you straight out then,
24 sir. You say that you were misidentified by
25 somebody, not George Hesse, concerning the

1 E. Carter

2 Gilbert incident, correct?

3 MR. GOODSTADT: Objection.

4 A. Yes.

5 Q. At some point in time prior to
6 April 2, 2006, you believe that the DA
7 thought that you were part of the Gilbert
8 incident, correct?

9 A. Yes.

10 Q. What did -- do you believe that
11 this misidentification by someone other than
12 George Hesse, was a reason for you not to be
13 rehired on April 2, 2006?

14 MR. GOODSTADT: Objection.

15 A. The Gilbert incident --

16 Q. Yes or no?

17 A. Part of it, yes.

18 Q. Okay. What part of your
19 misidentification do you believe resulted in
20 you not being rehired on April 2, 2006?

21 MR. GOODSTADT: Objection. He
22 just testified for five minutes about
23 it.

24 A. The Gilbert incident as a whole
25 was part of me being misidentified. Then

1 E. Carter

2 coming out about me wearing a wire for the
3 District Attorney's office to have these
4 guys admit that they beat up Gilbert during
5 an incident that happened in August of 2005.

6 Q. Who is "they" that you're talking
7 about, they say you were wearing a wire?

8 MR. GOODSTADT: Objection. He
9 already testified who said it.

10 Q. Who's "they"?

11 A. George Hesse. Arnold Hardman's
12 attorney and George Hesse.

13 Q. But that was April 2, 2006,
14 correct?

15 A. Yes.

16 Q. What did Mr. Hesse say about you
17 wearing a wire, if anything, prior to April
18 2, 2006?

19 A. To myself, nothing.

20 Q. To anybody that you're aware of,
21 prior to April 2, 2006?

22 A. Apparently he spoke to Arnie
23 Hardman about it, because it was said at the
24 meeting.

25 Q. Not apparently.

1 E. Carter

2 MR. CONNOLLY: Objection.

3 Q. What information can you point to
4 from any source that indicates that George
5 Hesse said anything to anyone, prior to
6 April 2, 2006, about you wearing a wire?

7 A. Nothing.

8 MR. NOVIKOFF: Let's end it
9 now. It's 12:30. We'll pick it up at
10 1:15.

11 THE VIDEOGRAPHER: The time is
12 12:29 p.m. We're going off the record.

13 (A break was taken.)

14 THE VIDEOGRAPHER: The time is
15 1:24 p.m. Back on the record.

16 Q. Mr. Carter, stay on the wire
17 issue. You testified that you were told
18 that Mr. Hesse made a comment concerning you
19 wearing a wire on April 2, 2006. Has anyone
20 told you that Mr. Hesse made a comment about
21 you wearing a wire at any time subsequent to
22 April 2, 2006?

23 A. No.

24 Q. The third alleged defamatory
25 statement that you claim or you testified

1 E. Carter

2 that Mr. Hesse made concerning you was that
3 you were sleeping on the job; is that
4 correct?

5 A. That I was sleeping, yes.

6 Q. Sleeping where?

7 A. He told me I was -- he told
8 another boss in the Town of Islip that I was
9 cutting myself thin and sleeping while
10 coming to work.

11 Q. Okay. Did Mr. Hesse ever
12 communicate directly to you any defamatory
13 statement concerning you sleeping while
14 working at Ocean Beach?

15 MR. GOODSTADT: Objection.

16 MR. NOVIKOFF: Withdrawn.

17 Q. Did Mr. Hesse ever advise you
18 that he believed that you -- withdrawn.
19 While you were working at Ocean Beach, did
20 Mr. Hesse ever advise you that he thought
21 you were sleeping while on the job?

22 A. No.

23 Q. On April 2, 2006, did Mr. Hesse
24 ever advise you that he believed that you
25 were sleeping while on the job at Ocean

1 E. Carter

2 Beach?

3 A. No.

4 Q. Prior to April 2, 2006, did
5 anyone tell you that Mr. Hesse said that you
6 were sleeping on the job?

7 A. No.

8 Q. Did -- has anyone told you that
9 Mr. Hesse, on April 2, 2006, said that you
10 were sleeping on the job?

11 A. No.

12 Q. Now after April 2, 2006, other
13 than what you say Mr. Hesse said to one of
14 your supervisors, did -- has anyone told
15 you that Mr. Hesse said that you were
16 sleeping on the job?

17 A. George Hesse himself, both
18 verbally and through an email.

19 Q. What did George Hesse say to you
20 verbally about you sleeping on the job?

21 A. He said that I had called -- he
22 said that I spoke to Greg DeCanio, who was
23 looking into my promotion, and I had to ask
24 him for a letter. He said, "I didn't know
25 what letter you needed. What you want in

1 E. Carter

2 the letter exactly. And I told Greg you
3 were cutting yourself thin. You just had
4 twin boys. You were coming to his job,
5 going upstairs and basically sleeping the
6 night away."

7 Q. Okay. And he told you this when?

8 A. May 15.

9 Q. Okay. And did he tell you this
10 face to face?

11 A. On the phone. No. On the phone
12 and in an email.

13 Q. Okay. Let's talk about on the
14 phone. Who called who?

15 A. I called -- George had originally
16 called me. Left a message. I called him
17 back when I got done with the training
18 class, and he said -- I said -- he said,
19 "Eddie, did you get my email?" I said, "No,
20 George. Truthfully, I didn't get on the
21 computer." And he said, "Oh, I sent you an
22 email explaining everything," and then he
23 explained it to me that he told Greg DeCanio
24 that I was cutting myself thin, I just had
25 the twin boys, and that I was sleeping while

1 E. Carter

2 A. Yes.

3 Q. Now Mr. Hesse starts off this
4 email by saying "I called Greg personally
5 and explained to him what was going on," do
6 you see that?

7 A. Yes.

8 Q. Who asked -- well, do you know
9 why Mr. Hesse was calling -- was calling
10 Greg personally to explain to him what was
11 going on?

12 MR. GOODSTADT: Objection.

13 A. No. I gave him no permission to
14 contact anyone in the town, and I had asked
15 him for a letter as to why I was let go for
16 future employment and basically for my
17 promotion with the Town of Islip because of
18 all the allegations that were said prior
19 with the blog, with the official misconduct
20 and the falsifying the paperwork.

21 Q. When did you ask Mr. Hesse for
22 this letter in relation to May 15, 2006?

23 A. Approximately seven days earlier.

24 Q. Now Mr. Hesse then goes on to say
25 "I told him that you were not involved in

1 E. Carter

2 any misconduct of any sort, " do you see
3 that?

4 A. Yes.

5 Q. That's a true statement?

6 A. Yes.

7 Q. According to your knowledge?

8 A. Yes.

9 MR. GOODSTADT: Objection.

10 Well, he -- you're asking him whether
11 he was not involved in misconduct or
12 that he told him he was not involved in
13 misconduct?

14 Q. Well, was what Mr. Hesse said a
15 true statement when I read "I told him you
16 were not involved in any misconduct of any
17 sort"?

18 A. I was not involved in any
19 misconduct of any sort.

20 Q. So that's a true statement?

21 A. Yes.

22 Q. "I told him you were let go
23 because you were spreading yourself thin
24 from job to job, coming to work tired and
25 sleeping your tour away," do you see that?

1 E. Carter

2 A. Yes.

3 Q. It has nothing -- no reference of
4 your twins here, is there?

5 MR. GOODSTADT: Objection. The
6 document speaks for itself.

7 Q. Any reference to your twins being
8 born in this -- in this email?

9 A. Not in the email.

10 Q. And, in fact, you weren't working
11 at the time that your twins were born, were
12 you?

13 A. Correct. But in the phone call
14 he brought it up.

15 Q. He brought what up?

16 A. About the twins.

17 Q. Saying what?

18 A. Saying that I -- I was cutting
19 myself thin. I have a -- the phone call the
20 same day. I didn't read this email until
21 later is when he brought up about the twins.

22 Q. Did you tape his phone call?

23 A. Yes, I did.

24 Q. Have you produced that?

25 A. Yes.

1 E. Carter

2 Q. Did you respond to Mr. Hesse when
3 he mentioned the fact that he believed that
4 you were sleeping on duty as a result of
5 your twins being born?

6 A. At that point, I wasn't getting
7 confrontational with him. I was done with
8 him. This was the fourth and final reason
9 he was coming up with defaming me, and by
10 calling another boss, I wasn't dealing -- I
11 wasn't dealing with him anymore. At that
12 point --

13 Q. You only gave three reasons,
14 what's the fourth?

15 A. The first one was --

16 Q. You said directives?

17 A. Directives.

18 Q. Wire?

19 A. Wearing a wire.

20 Q. Sleeping?

21 A. Falsifying on the blog. The
22 other reason where Arnie Hardman said also,
23 that he thought I got scooped up and he was
24 going to talk to George Hesse. The
25 Halloween incident.

1 E. Carter

2 Q. But Mr. Hesse never told you that
3 you were being fired because you were
4 scooped up in the Halloween incident, did
5 he?

6 A. He never told me. It was on the
7 blog, and Arnie Hardman reconfirmed that
8 that possibly was one of the reasons by the
9 phone call he gave me after I was let go.

10 Q. So Arnie Hardman told you that
11 that was a possible reason why you were
12 fired?

13 A. His exact words was --

14 Q. No. No. Is that what Arnie
15 Hartman told you?

16 MR. GOODSTADT: Objection.

17 He's about to tell you what his exact
18 words were.

19 A. His exact words were, "Carter,
20 you got -- I think you got fired -- let go
21 because you got scooped up in the Halloween
22 incident. I'm going to talk to George when
23 he comes back from vacation and I'm going to
24 see about having you rehired," and I asked
25 George about that, and he said, "Yeah, I

1 E. Carter

2 spoke to Arnie, and no."

3 Q. Hesse never told you you were
4 fired for being scooped up in the Halloween
5 incident, did he?

6 A. No.

7 Q. So when you say there's four
8 times, that's not true, there were three
9 times according to your testimony, right?

10 MR. GOODSTADT: Objection.

11 Q. Wire, sleeping and directives,
12 right?

13 MR. GOODSTADT: Objection.

14 A. And the blog with the other --
15 with Arnie Hardman backing it up, I believe
16 that would be.

17 Q. You testified as to what Hesse
18 told you?

19 A. Yes.

20 Q. Hesse gave you three reasons,
21 right?

22 A. Yes.

23 Q. Not four?

24 A. No. Three.

25 Q. Right.

1 E. Carter

2 MR. GOODSTADT: I don't believe
3 he actually testified that Hesse told
4 him he was wearing a wire. Didn't he
5 tell it to the meeting?

6 MR. NOVIKOFF: We'll go on.

7 Q. Now when Mr. Hesse told you in
8 this phone conversation that he believed
9 that you were sleeping on the job because
10 your twins were born, why didn't you tell
11 him that you weren't working at the time
12 that your twins were born?

13 A. I did subsequently -- in that
14 conversation or another one say, "George, I
15 haven't worked since February and as
16 prior -- you know, prior to the twins," and
17 he just said no.

18 Q. So on that tape recording that
19 you just referenced, it would say -- it
20 would sound -- I'm sorry, it would say that
21 you told George that you weren't working, is
22 that your testimony?

23 A. Yes.

24 Q. Now you said there was a
25 subsequent conversation. What subsequent

1 E. Carter

2 conversation did you have if you said you
3 were done with him?

4 A. The one prior -- the one prior I
5 originally spoke to him was about the blog
6 and then this one. So it was in this
7 conversation. We had a long conversation.
8 I asked him why he didn't let me go six to
9 eight weeks prior if he's talking about me
10 sleeping, and he said he didn't know where
11 he was going to be or where the department
12 was going.

13 Q. So you told him in this tape
14 recorded conversation, when he said that you
15 were sleeping your tour away because the
16 twins were born, that you weren't working
17 when your twins were born, is that your
18 testimony?

19 A. Yes.

20 Q. Okay. So when I play that tape,
21 if I ever get that tape -- maybe I did
22 already.

23 MR. GOODSTADT: You did.

24 Q. Okay. It's going to specifically
25 say on that tape recording that you told

1 E. Carter

2 George that you weren't working?

3 A. After February, yes.

4 Q. Okay. And George then goes on to
5 say "I also said that when you work, you're
6 a great employee and to expect a lot from
7 you," do you see that?

8 A. Yes.

9 Q. Anything false about that?

10 A. No.

11 Q. George then goes on to say "I
12 have no doubt you'll be a great lieutenant,
13 good luck," do you see that?

14 A. Yes.

15 Q. Now this guy Greg, his name is
16 Greg Decantio?

17 A. DeCanio, yes.

18 Q. And for whom did he work for on
19 May 15, 2006?

20 A. He works for Long Island
21 Macarthur Airport.

22 Q. In what capacity?

23 A. He's the chief.

24 Q. Chief of what?

25 A. The Long Island Macarthur

1 E. Carter

2 Airport.

3 Q. Do you work with Long Island
4 Macarthur Airport?

5 A. No.

6 Q. Had you applied for the Long
7 Island Macarthur Airport job prior to May
8 15, 2006?

9 A. No. His department was doing an
10 internal investigation for our department
11 needs as far as budgeting, promotions and
12 manpower.

13 Q. Explain that.

14 A. The department I work for, which
15 is now under the department of parks and
16 recreation, we moved from the department of
17 code enforcement, there was a new
18 commissioner that was unaware of the
19 department needs and stuff. So they
20 empanelled Greg DeCanio, being the chief law
21 enforcement officer of the airport, to
22 interview the guys, interview the
23 supervisors and to look into budgetary needs
24 and promotions and stuff.

25 Q. Had you taken that test yet as of

1 E. Carter

2 May 15, 2006?

3 A. Yes.

4 Q. Had the test results come back?

5 A. No.

6 Q. And you believe that Mr. DeCantio
7 was doing an investigation into you
8 concerning your application to be promoted?

9 A. I know that for a fact.

10 Q. That's your testimony?

11 A. Yes.

12 Q. And you know that for a fact
13 based upon Mr. DeCantio telling you?

14 A. Mr. DeCanio's interview with me,
15 yes.

16 Q. Okay. And when did Mr. DeCantio
17 interview you?

18 A. It was sometime in the summer of
19 2006.

20 Q. Okay. After this email?

21 A. At this time, I don't recall if
22 it was prior or after.

23 Q. All right. And have you spoken
24 to Mr. DeCantio about what Mr. Hesse said in
25 this email?

1 E. Carter

2 A. Yes.

3 Q. When did you speak to him?

4 A. Soon after.

5 Q. And who initiated the
6 conversation?

7 A. Myself.

8 Q. How?

9 A. I met up with him and --

10 Q. So you met up with him?

11 A. I met up with him.

12 Q. So it was face to face?

13 A. Yes.

14 Q. Did you ask to meet with him?

15 A. He actually called me on the
16 phone to come up there and meet him.

17 Q. Did he tell you why he wanted to
18 meet with you?

19 A. No.

20 Q. Okay. And how long was this
21 conversation? How long was this meeting?

22 A. The exact time frame I can't tell
23 you. It was approximately I'd say 20
24 minutes to a half hour.

25 Q. And was the entire subject matter

1 E. Carter

2 of this meeting this email?

3 A. No.

4 Q. What else did you talk about with
5 Mr. DeCantio about -- other than this email?

A. Training within the department
and the upgrades for the guys.

8 O. The up what?

9 A. The upgrade. Upgrading of the
10 park rangers.

11 Q. Okay. And was this a job
12 interview, to your knowledge?

13 A. No.

14 Q. What was the purpose of this
15 meeting?

16 A. It was part of that
17 investigation.

18 Q. Into whether or not you should be
19 promoted? .

20 A. That, and the department needs,
21 yes.

22 Q. When you say "department needs,"
23 what do you mean?

24 A. The budgetary, the training, the
25 upgrading of the park rangers. Hiring more

1 E. Carter

2 people. Personnel.

3 Q. Now who initiated the
4 conversation specifically with regard to
5 what Mr. Hesse said?

6 A. I believe myself.

7 Q. What did you say to him?

8 A. I told him that I understand
9 George called him, and he said, "Yeah,
10 Eddie." He goes, "I don't know why he
11 called me." And I said to him, I said,
12 "Well, probably because I explained to him
13 when I spoke to him, that your department's
14 doing an investigation into the needs, but I
15 never told him to call you or not."

16 Q. And what did -- what else did you
17 say about this, if anything?

18 A. Just that what Hesse told him
19 about me sleeping was false.

20 Q. And what did he say?

21 A. He just shrugged it off.

22 Q. Did -- to your knowledge, does
23 Mr. DeCantio have any involvement in whether
24 or not you get promoted?

25 A. At that point, yes.

1 E. Carter

2 Q. What was his involvement, to the
3 best of your recollection?

4 A. He was reporting to my
5 commissioner at that time.

6 Q. Who was your commissioner?

7 A. Cathy O'Bannon.

8 Q. And do you have any knowledge as
9 to whether or not Mr. DeCantio spoke to
10 Ms. O'Bannon concerning the subject matter
11 of this email?

12 A. It would be my belief --

13 Q. No. Do you have any knowledge?

14 A. No.

15 Q. Personal knowledge?

16 A. No.

17 Q. Did Mr. DeCantio ever -- well,
18 withdrawn. Have you spoken with
19 Ms. O'Bannon concerning the subject matter
20 of this email?

21 A. No.

22 Q. Has anyone ever advised you that
23 the reason that you have not been promoted
24 is because of what Mr. Hesse specifically
25 said in this email?

1 E. Carter

2 A. No.

3 Q. Has the position -- well, what
4 position were you looking to be promoted to?

5 A. Suffolk County Civil Service
6 title is park ranger three.

7 Q. And you're a park ranger two now,
8 right?

9 A. Yes.

10 Q. Has the park ranger three
11 position been filled?

12 A. No.

13 Q. Actually, let me go back to your
14 conversation with Mr. Hesse. Why were you
15 taping the phone call?

16 A. I believe I answered that
17 earlier. With the conflicting reasons why
18 he let me go.

19 Q. Is that the only conversation you
20 taped with Mr. Hesse?

21 A. There was two that I'm aware of
22 at this time.

23 Q. That you taped, not that Mr. Lamm
24 taped?

25 A. Yes.

1 E. Carter

2 Q. Well, who else would be aware of
3 what conversations you taped, other than
4 you?

5 A. No. I had to re-call him one
6 time because there was a phone -- a problem
7 with the phone lines at Ocean Beach. If you
8 want to call that a second -- a third time.
9 It was in the same phone, you know.

10 Q. And -- and did you advise -- in
11 any of these two conversations, did you ever
12 advise Mr. Hesse that he was being tape
13 recorded?

14 A. No.

15 Q. Did you ask his permission to be
16 tape recorded?

17 A. No.

18 Q. So you hid from him the fact that
19 you were tape recording him?

20 A. No. I never disclosed it, yes.

21 Q. Do you have -- you don't believe
22 not disclosing it is different than
23 hiding -- well, withdrawn. Do you think
24 that not disclosing something is the same as
25 hiding?

1 E. Carter

2 MR. GOODSTADT: Objection.

3 A. No.

4 Q. You think it's a difference, not
5 disclosing from hiding?

6 MR. GOODSTADT: Objection.

7 Q. You hid the fact that you were
8 taping the conversations with Mr. Hesse;
9 isn't that true?

10 MR. GOODSTADT: Objection.

11 A. Yes.

12 Q. Okay. And you were trying to get
13 evidence from Mr. Hesse concerning your
14 termination, correct?

15 MR. GOODSTADT: Objection.

16 A. No. I was trying to get evidence
17 in case if my promotion came up, to show
18 that Mr. Hesse was not only defaming me, he
19 was lying about why he let me go, and I can
20 show a future boss what happened.

21 Q. And did you?

22 MR. GOODSTADT: Objection.

23 A. No.

24 Q. Why not?

25 A. Never came a point.

1 E. Carter

2 Q. Never came a point. You've never
3 gone to any employer with this information?

4 A. No.

5 Q. That's because you don't -- you
6 haven't applied for any other jobs that
7 needed -- that required a polygraph,
8 correct?

9 MR. GOODSTADT: Objection.

10 A. Yes.

11 Q. Is that your testimony?

12 A. Yes.

13 MR. NOVIKOFF: Let's mark the
14 following document as Carter-6.

15 (Suffolk County Civil Service
16 Eligible List was marked as Carter
17 Exhibit-6 for identification;
18 9/16/08, E.L.)

19 Q. Prior to today, have you seen
20 this document?

21 A. Yes, sir.

22 Q. Is this the -- to your knowledge,
23 what is this document?

24 A. This is the Suffolk County Civil
25 Service List number 06-5603-30 for park

1 E. Carter

2 ranger three promotional.

3 Q. To your knowledge -- and you
4 scored a 75 on this?

5 A. Yes, sir.

6 Q. To your knowledge, has Thomas
7 Grosse been promoted to park ranger three?

8 A. Yes, he has.

9 Q. Is that for the Town of
10 Smithtown?

11 A. Yes, sir.

12 Q. Is this your handwriting?

13 A. Yes, sir.

14 Q. And when did you make these
15 comments about Town of Smithtown park
16 rangers?

17 A. Prior to giving it to my
18 attorney.

19 Q. Okay. And has Anna Morganier
20 been promoted to park ranger three?

21 A. Not at this time, to my
22 knowledge.

23 Q. Then why did you include
24 Ms. Morganier in the little arrow?

25 A. Because herself and Thomas Grosse

1 E. Carter

2 work for the Town of Smithtown. Being the
3 fact that it's a promotional test, it's only
4 promotional within your department. I was
5 the only park ranger two that passed the
6 test in my department.

7 Q. And that would be Town of Islip?

8 A. Town of Islip, I'd be number one.

9 Q. Got it. Okay. And have you
10 inquired as to why, if the position --
11 well, is the position still open?

12 A. At this time, yes.

13 Q. And have you inquired as to why,
14 if the position is open and you're the only
15 person who has -- who had passed the test in
16 the Town of Islip, you have not been
17 promoted?

18 A. I asked my original boss, Marty
19 Raber, for when he --

20 Q. The question is yes or no, have
21 you inquired?

22 A. Yes.

23 Q. When -- have you inquired on more
24 than one occasion?

25 A. Yes.

1 E. Carter

2 Q. Okay. When's the last time that
3 you've inquired?

4 A. After the list came out. I
5 showed it to Marty Raber. I printed it out
6 sometime after August 8 and --

7 Q. September 8?

8 A. September -- I'm sorry, September
9 8. I asked him -- you know, I said, "I
10 passed. I scored number one." I said, "You
11 know, what's happening?" And he didn't give
12 me a reason.

13 Q. You scored number one for Town of
14 Islip?

15 A. For the Town of Islip, yes.

16 Q. Right. Because you're number
17 three here.

18 A. Yes. Well, number one for the
19 Town of Islip.

20 Q. Right. So number -- so Mr.
21 Raber, how do you spell his last name?

22 A. R-A-B-E-R.

23 Q. And Mr. Raber didn't give you a
24 reason?

25 A. No.

1 E. Carter

2 Q. Did you -- and was Mr. Raber your
3 boss?

4 A. Yes. At the time, yes.

5 Q. At the time, who was his boss, if
6 anybody?

7 A. Cathy O'Bannon.

8 Q. Did you go to Cathy O'Bannon to
9 inquire?

10 A. No.

11 Q. Did you send any writing in this
12 September 2006 time period requesting a
13 reason why you were not promoted?

14 A. No.

15 Q. Okay. Now you said Mr. Raber was
16 your supervisor at that time. Has someone
17 else taken over for Mr. Raber as your
18 supervisor?

19 A. The position that he was in is
20 currently vacant and we're working under the
21 executive commissioner to recreation I
22 believe the title is, the new boss.

23 Q. And who is that?

24 A. George Schimpf.

25 Q. Okay. Well, we now know that

1 E. Carter

2 you -- according to your testimony, you
3 spoke with Mr. Raber in the September 2006
4 time period concerning why you were not
5 promoted and he responded -- he didn't
6 respond to you; is that fair?

7 A. That's fair.

8 Q. And when was the next time that
9 you spoke with anyone at the Town of Islip
10 concerning why you were not being promoted?

11 A. I've spoke to Mr. Schimpf about
12 it and he said at that point they're not
13 promoting anyone.

14 Q. Well, hold on. When did you
15 speak with Mr. Schimpf in relation to when
16 you spoke with Mr. Raber?

17 A. 2007.

18 Q. When in 2007?

19 A. Mid 2007.

20 Q. Okay. And Mr. Schimpf was what
21 at that time as it relates to the Town of
22 Islip?

23 A. I believe his title was executive
24 commissioner, executive assistant
25 commissioner of recreation.

1 E. Carter

2 Q. And what did you -- and was this
3 a face-to-face conversation?

4 A. Yes.

5 Q. Okay. Did you ask to meet with
6 him?

7 A. Yes.

8 Q. And did -- was he hesitant at
9 all, to your recollection, in meeting with
10 you?

11 A. No.

12 Q. Did you explain to him before the
13 meeting why you wanted to meet with him?

14 A. No.

15 Q. Had you met with Mr. Schimpf for
16 any reason prior to that day?

17 A. Yes. He was my boss. Yes.

18 Q. Okay. He was your direct
19 superior at the time?

20 A. Yes.

21 Q. Okay. And what did you ask
22 Mr. Schimpf at that time concerning why you
23 were not promoted?

24 A. He was putting the budgetary
25 stuff together and he said, you know, you're

1 E. Carter

2 doing the work of a park ranger three by
3 scheduling everybody, the whole department
4 and stuff, and you know, he would look into
5 it, and you know, for his superiors above
6 him to give it to me or not, which would be
7 the commissioner.

8 Q. Okay. So Schimpf told you in
9 this conversation that you asked for
10 concerning why you weren't promoted, Schimpf
11 said to you "I'll look into it, but it's for
12 my superiors to make that decision"?

13 A. They're the ones that have to
14 push for it, yes.

15 Q. I believe you testified, though,
16 in response to my prior question, that
17 Schimpf told you they weren't hiring; was
18 that correct?

19 MR. GOODSTADT: Objection.

20 Q. Well, let me ask you, did Schimpf
21 tell you during this conversation that in
22 his opinion, the Town of Islip wasn't hiring
23 anyone for that position at that time?

24 A. They weren't filling that
25 position at that time.

1 E. Carter

2 Q. And did he explain to you during
3 this conversation why they weren't filling
4 it at that time?

5 A. No.

6 Q. Did you ask him to -- well, did
7 he ever get back to you after that
8 conversation with regard to what, if
9 anything, he did with regard to talking to
10 his superiors about filling that position?

11 A. Yes.

12 Q. Okay. When did that next
13 conversation take place with Mr. Schimpf?

14 A. Approximately a week ago.

15 Q. A week ago?

16 A. Yes.

17 Q. So we're talking first
18 conversation with Mr. Schimpf about you
19 being promoted took place in mid January
20 of -- in mid 2007; is that correct?

21 A. Yes.

22 Q. And we're now in September of
23 2008, and that was your second conversation
24 with Schimpf about not being promoted yet,
25 correct?

1 E. Carter

2 A. I can't recall. I'm sure we
3 spoke. He asked me a couple other times if
4 that list was still valid, so I'm going to
5 say no.

6 Q. He asked you a couple times if
7 the list was still valid?

8 A. Yes.

9 Q. Meaning what?

10 A. Civil service lists expire. I
11 don't know the exact time frame. Sometimes
12 it's four years, sometimes it's longer.

13 Q. Well, I just want to get the time
14 frame down. We have mid January -- I'm
15 sorry, mid 2007 you have your first
16 conversation with Schimpf about being
17 promoted to park ranger three, correct?

18 A. Yes.

19 Q. And he told you during that
20 conversation that he doesn't know why you're
21 not being promoted, but that's a decision
22 for his superiors, correct?

23 A. Yes.

24 Q. And he said he was going to look
25 into it, correct?

1 E. Carter

2 A. Yes.

3 Q. And the next substantive
4 conversation you had with Mr. Schimpf
5 wherein the discussion about why you weren't
6 promoted, took place a week ago?

7 MR. GOODSTADT: Objection.

8 Q. Is that correct?

9 A. I'm going to answer no to that.

10 Q. Okay. Well, then tell me when
11 was the next time that you had a
12 conversation -- after the mid 2007
13 conversation with Schimpf, when was the next
14 time that you had a conversation with
15 Schimpf when you inquired with him why you
16 weren't being promoted or he advised you why
17 you weren't being promoted?

18 MR. GOODSTADT: Objection.

19 A. I don't recall exactly when it
20 was, but like I said, in the meantime, he
21 asked me a few times when the list expired,
22 if it was still valid, and that they were
23 having meetings with the chief of staff, and
24 the commissioner is the one that has to push
25 for it.

1 E. Carter

2 Q. Well, did you ask Schimpf why
3 there was a -- why they weren't filling
4 that position? Withdrawn. Putting aside
5 the conversation in mid 2007, on any
6 occasion when Schimpf told -- asked you as
7 to whether or not the list was still valid,
8 did you inquire with him as to why the
9 position wasn't being filled?

10 A. No.

11 Q. Okay.

12 A. Except he brought it up to me
13 again last week and he told me make a --
14 make a meeting, set up a meeting with the
15 commissioner, bring your resume, get all
16 your paperwork together, bring everything
17 you have, and the commissioner is going to
18 be the one to push for you.

19 Q. Well, you had known that prior to
20 last week, right, that the commissioner had
21 to be the one to push for you, right?

22 A. I have a new commissioner now.

23 Q. What's that?

24 A. I have a new commissioner now.

25 Q. Oh, who was the old commissioner?

1 E. Carter

2 A. It was Cathy O'Bannon.

3 Q. Okay. And you never pushed --
4 did you ever ask for a meeting with Cathy
5 O'Bannon between the first conversation with
6 Schimpf in mid 2007 and the time
7 Ms. O'Bannon left?

8 A. No.

9 Q. When did Ms. O'Bannon leave?

10 A. I don't know exactly.

11 Q. Well, approximately?

12 A. I don't know, sir. I work
13 midnights and I don't --

14 Q. Did Mr. Schimpf ever advise
15 you -- well, did Mr. Schimpf advise you last
16 week as to why you were not being promoted?

17 A. No.

18 Q. Okay. Did you -- have you made
19 any written -- have you submitted any
20 written communications to the Town of Islip
21 inquiring as to why you weren't promoted?

22 A. No.

23 Q. What did you do, other than have
24 one conversation with Mr. Schimpf in 2007, a
25 conversation with Mr. Schimpf last week and

1 E. Carter

2 a few conversations in between to inquire as
3 to why you were not promoted to park ranger
4 three?

5 A. I spoke to Mr. Raber back in
6 2006.

7 Q. Other than that, between your
8 first conversation with Schimpf in mid 2007
9 and last week, what, if anything, did you
10 affirmatively do to inquire as to why you
11 weren't being promoted?

12 A. Nothing at this time.

13 Q. Did any superior of yours at the
14 Town of Islip advise you that you were not
15 being promoted because of anything that
16 Mr. Hesse said?

17 A. Again, back to that phone call to
18 the Town of Islip from Tom Iacopelli, Marty
19 Raber was in the room, and when the
20 secretary said the DA's on the phone for
21 you, Marty Raber, when I got off, he said,
22 "Oh, you're one of those? You speak to the
23 DA?" And he walked away.

24 Q. When did this conversation take
25 place?

1 E. Carter

2 A. This was back in September of
3 '06. No. I'm sorry. September of '05.

4 Q. Okay. But you weren't --
5 Mr. Hesse hadn't fired you, according to
6 your complaint, in September of '05, did he?

7 A. No.

8 Q. Right. You were still an
9 employee of Ocean Beach, right?

10 A. Yes.

11 Q. Okay. So my question to you,
12 then, sir, is, between April 2, 2006 and the
13 present day, has any superior advised you at
14 the Town of Islip, that the reason you have
15 not been promoted is because of anything
16 that George Hesse has said about you?

17 A. No.

18 Q. Has any superior of yours at the
19 Town of Islip advised you that the reason
20 that you have not been promoted is because
21 of anything concerning your alleged
22 termination on April 2, 2006?

23 A. No.

24 Q. Now you understand that your
25 complaint is a public record, correct?

1 E. Carter

2 A. Yes.

3 Q. And you understand that anyone at
4 the Town of Islip who can access a computer
5 and know where to go, could bring up your
6 complaint in this matter; isn't that true?

7 A. Now I do. Yes.

8 Q. You didn't know that until I told
9 you?

10 A. I didn't realize you could get it
11 off a computer. No.

12 Q. Okay. Well, let me ask you
13 another thing on this regard. Did you
14 attend a press conference shortly after the
15 filing of this complaint?

16 A. Yes.

17 Q. Who else attended that press
18 conference?

19 A. My attorneys and the other
20 defendants.

21 Q. And where did the press
22 conference take place?

23 A. My attorney's office.

24 Q. And what media outlets, if any,
25 were present at your press conference, to

1 E. Carter

2 the best of your recollection?

3 A. I remember there being Channel 12
4 News and Newsday.

5 Q. Okay. And did News 12 carry a
6 story concerning your lawsuit, to the best
7 of your knowledge?

8 A. Yes.

9 Q. On television?

10 A. Yes.

11 Q. Was your face there?

12 A. Yes.

13 Q. Was your name mentioned --

14 A. Yes.

15 Q. -- by News 12? Did Newsday carry
16 an article concerning your press conference?

17 A. Yes.

18 Q. Was your name mentioned?

19 A. Yes.

20 Q. Would you agree with me, sir,
21 that if any of your superiors at the Town of
22 Islip had been watching Newsday -- watching
23 News 12 the night of your -- of the story
24 about your press conference, they would have
25 known that you were part of a lawsuit

1 E. Carter

2 against the Village of Ocean Beach?

3 MR. GOODSTADT: Objection.

4 A. That I was part of a lawsuit,
5 yes, but they didn't know the whole of the
6 lawsuit.

7 Q. I understand that. I'm not
8 debating with you on that. And would you
9 agree with me, sir, that if any of your
10 superiors at the Town of Islip decided to
11 read Newsday the day after your lawsuit --
12 I'm sorry, the day after your press
13 conference, they would have read that you
14 were part of a lawsuit against Ocean Beach?

15 MR. GOODSTADT: Objection.

16 A. Yes.

17 Q. Sir, can you just go back to the
18 Notice of Claim for one second. Page two.
19 Again -- withdrawn. We've talked about
20 certain defamatory comments that you claim
21 that Mr. Hesse made about you and that
22 Mr. Bacon made about you. On the second
23 page of your Notice of Claim, second full
24 sentence of the top paragraph, you write "in
25 further retaliation for Claimant's

1 E. Carter

2 opposition both during Claimant's employment
3 and subsequent to the unlawful termination
4 of his employment, defamatory statements
5 have been made about Claimant, both verbally
6 and in writing on the internet, in other
7 media and to others"?

8 A. Yes.

9 Q. What other media are you
10 referring to that Mr. Hesse and/or Mr. Bacon
11 defamed you?

12 A. The media -- the media would
13 be -- what I believe it to be is the email
14 to Greg -- the phone call to Greg DeCanio
15 and the email to me.

16 Q. So you say you believe he defamed
17 you in the email to you?

18 A. Yes.

19 Q. Did he, to your knowledge, copy
20 anyone else on that email?

21 A. No.

22 Q. Are you aware as to whether he
23 sent that email to anybody else?

24 A. Not at all. No.

25 Q. Now to your knowledge, would

1 E. Carter

2 Ms. Morganier have to be offered the job of
3 park ranger three before you were offered it
4 under the Civil Service Laws?

5 A. Absolutely not. Because it's a
6 promotional position. It's good for only
7 the town you work in. You have to work two
8 years prior to be obtaining the test.

9 Q. I'm just asking you. So you
10 don't believe she has to be offered that
11 job?

12 A. No.

13 MR. NOVIKOFF: I'm going to ask
14 the court reporter to mark this
15 Carter-7.

16 (Letter to Mr. Carter dated
17 September 8, 2006 was marked as
18 Carter Exhibit-7 for identification;
19 9/16/08, E.L.)

20 Q. Carter-7 is a letter dated
21 September 8, 2006 purporting to be from --
22 it's not a letter, a memo from Alan
23 Schneider, personnel director, to you. Do
24 you see that?

25 A. Yes.

1 E. Carter

2 Q. Did you ever inquire with
3 Mr. Schneider -- well, do you recall
4 receiving this letter, this memo?

5 A. Yes.

6 Q. Okay. And did you ever inquire
7 with Mr. Schneider as to what he meant when
8 he said in the second sentence -- second
9 paragraph, last sentence, "your position on
10 the list is three"?

11 A. No.

12 Q. Did you have an understanding as
13 to what Mr. Schneider meant when he wrote
14 "your position on the list is three"?

15 A. Yes.

16 Q. What did he mean?

17 A. On the Suffolk County list, my
18 position is number three.

19 Q. Okay. Now did you ever inquire
20 with Mr. Schneider, between September 8,
21 2006 and today, as to why you were not being
22 promoted to park ranger three for the Town
23 of Islip?

24 A. No.

25 Q. To your knowledge, is

1 E. Carter

2 Mr. Schneider still the personnel director?

3 A. For Suffolk County Civil Service,
4 yes.

5 MR. NOVIKOFF: Why don't we end
6 the tape now, just take a really brief
7 three to five-minute break, and come
8 back.

9 THE VIDEOGRAPHER: This
10 completes tape number three. The time
11 is 2:01 p.m. Going off the record.

12 (A break was taken.)

13 THE VIDEOGRAPHER: This begins
14 tape number four. The time is 2:11
15 p.m. Back on the record.

16 Q. Now, sir, had you retained
17 Mr. Goodstadt's law firm prior to the time
18 that you tape recorded your conversations
19 with Mr. Hesse?

20 MR. GOODSTADT: Objection.

21 A. No.

22 Q. Let's go back to your Notice of
23 Claim for one more time, hopefully.

24 MR. GOODSTADT: Can I hold you
25 to that?

1 E. Carter

2 MR. NOVIKOFF: You still have
3 it. Oh, hold me to it?

4 MR. GOODSTADT: Yes.

5 Q. You write in the last sentence,
6 the first paragraph on page two -- up. Up.
7 Yeah. "Such defamatory statements have been
8 issued by or under the direct authorization
9 or direction if individuals employed by the
10 Ocean Beach Police Office Department." I
11 presume instead of "if" you meant "of"?

12 A. Yes.

13 Q. Okay. Who authorized Mr. Bacon's
14 alleged defamatory statements that you
15 referenced -- that you referred to as part
16 of the April 6, 2006 blog?

17 A. It's my belief George Hesse.

18 Q. And what is that belief based
19 upon?

20 A. Because George Hesse when he
21 spoke the conversation with Tom Snyder.

22 Q. What did George Hesse say to Tom
23 Snyder that leads you to believe that he
24 authorized Bacon to make that alleged
25 defamatory statement?

1 E. Carter

2 A. That he was aware of them.

3 Q. Okay. So because Hesse was aware
4 that Bacon made this blog statement, you
5 believe that that means that he authorized
6 Bacon to do it?

7 A. That he knew of it, yes.

8 Q. My question is, what evidence do
9 you have that Hesse either directed or
10 authorized Bacon to make the statement that
11 you say was defamatory as it appears on the
12 April 6, 2006 blog?

13 MR. GOODSTADT: Objection.

14 A. I'm sorry, can you repeat the
15 question?

16 Q. Yeah. What evidence do you have
17 that Hesse directed Bacon to make the
18 statement that you claim to be defamatory?

19 MR. GOODSTADT: Objection.

20 A. None.

21 Q. What evidence do you have that
22 Hesse authorized Bacon to make the statement
23 that you claim to be defamatory?

24 MR. GOODSTADT: Objection.

25 That was asked and answered.

1 E. Carter

2 Q. You can answer it.

3 A. None. I believe I just answered.

4 Q. Okay. I'm going to show you
5 what's been previously marked as Defendants'
6 Exhibit-1. Do you need a copy? I can give
7 you one. Now do you recognize what's been
8 labeled or what's been previously marked as
9 Defendants'-1?

10 A. I believe it's our complaint.

11 Q. And did you authorize your
12 attorneys to file this complaint in your
13 behalf?

14 A. Yes.

15 Q. Did you review any drafts of this
16 complaint prior to authorizing your
17 attorneys to file the complaint on your
18 behalf?

19 A. Yes.

20 Q. Did you review it for accuracy,
21 sir?

22 A. Yes.

23 Q. Was it important for you -- was
24 it important to you that nothing that was
25 set forth in there was inaccurate?

1 E. Carter

2 A. Yes.

3 Q. Was it important that nothing
4 would be considered to be a lie as set forth
5 in that complaint?

6 A. As a lie, yes.

7 Q. Or wrong?

8 A. Yes.

9 Q. This was an important document in
10 your life, correct?

11 A. Yes.

12 MR. GOODSTADT: objection.

13 Q. This was your lawsuit against
14 Ocean Beach, correct?

15 A. Yes.

16 Q. Would you have authorized your
17 attorney to file this if you were aware of
18 anything that was inaccurate?

19 MR. GOODSTADT: Objection.

20 A. N° .

21 Q. Okay. Let's look at paragraph
22 109. It's on page 25. Please read
23 paragraph 109 and tell me when you're done.

24 A. (Reviewing). Yes.

25 Q. Accurate?

1 E. Carter

2 A. Yes.

3 Q. Anything in there right now you
4 want to tell us that may not be completely
5 and 100 percent accurate?

6 MR. GOODSTADT: Objection.

7 A. No.

8 Q. Okay. You allege in the first
9 sentence "upon information and belief,
10 Carter and Snyder were denied promotion to
11 the respective positions of lieutenant and
12 sergeant in the Town of Islip due to
13 unfounded negative references from Hesse."

14 A. Yes.

15 Q. Is the promotion you're referring
16 to, as it pertains to you only, the park
17 ranger three promotion?

18 A. Yes.

19 Q. Sir, the town has not indicated
20 that you have been denied a promotion, has
21 it, sir?

22 MR. GOODSTADT: Objection.

23 A. I haven't received it.

24 Q. Has the town ever advised you
25 that the promotion that you are seeking has

1 E. Carter

2 been denied?

3 A. No.

4 Q. You write "upon information and
5 belief." What is your information and
6 belief?

7 A. My information is the phone call
8 to Greg DeCanio. Also, in the locker room,
9 the guys were talking about it when the
10 Ocean Beach website showed up that there was
11 no way I was going to get that promotion
12 with the corruption. Basically trying --
13 they felt I was connected to it, and when I
14 dropped paperwork off at the town at the
15 personnel department after the boys were
16 born, one of the women said to me, "Are you
17 going to get arrested?" And I looked at her
18 like confused. I didn't know what she was
19 talking about. And she was referring to the
20 blog again.

21 Afterwards, I sat down. I spoke
22 to the personnel director for the town. I
23 don't recall the exact date. Her name is
24 Zelda, and I explained to her about what was
25 going on with the blog and the rumors that

1

E. Carter

2 were running around about the official
3 misconduct and stuff, and she said for me,
4 my best -- it would be in my best interest
5 to get a letter as to what happen -- why I
6 was let go from Ocean Beach, and if I
7 didn't, they probably would hold up the
8 position.

9 Q. Let's talk about the locker room.

10 The guys in the locker room said what?

11 A. They're the ones that originally
12 made me aware what was posted on the blog,
13 that on Halloween night, they said, "You did
14 official misconduct. You falsified
15 paperwork for an incident." I looked at
16 them confused because I said, "I didn't work
17 Halloween at Ocean Beach. I worked for the
18 town a double tour."

19 Q. But the boys -- the guys in the
20 locker room said what concerning you not
21 getting promoted?

22 A. They were saying that they had
23 heard that I was involved in the corruption
24 over at Ocean Beach.

25 Q. The guys in the locker room had

1 E. Carter

2 heard?

3 A. Yes.

4 Q. Based upon reading the blog?

5 A. That and talking to the bosses,
6 yes.

7 Q. Oh, the guys in the locker room
8 said they were talking to the bosses?

9 A. In conversation over coffee and
10 stuff.

11 Q. What bosses are they referring
12 to?

13 A. Mr. Raber.

14 Q. Mr. Raber. Did you ever approach
15 Mr. Raber about what the guys said to you in
16 the locker room concerning the blog?

17 A. No.

18 Q. No? Okay. Did Mr. Raber ever
19 tell you that the reason that you were not
20 being promoted was because he had read the
21 blog?

22 A. No.

23 Q. Did Mr. Raber ever tell you the
24 reason that you weren't being promoted is
25 because he had been told about the blog?

1 E. Carter

2 A. No.

3 Q. Did anyone that replaced
4 Mr. Raber tell you that the reason you
5 weren't being promoted was because he or she
6 had read or been told what was said on the
7 blog?

8 A. No.

9 Q. Did any superior of Mr. Raber or
10 anyone that replaced Mr. Raber, ever advise
11 you that the reason you weren't being
12 promoted was because of something they had
13 seen or heard about on the blog?

14 A. No.

15 Q. So it -- would it be fair to say
16 that it's complete speculation that you were
17 not given your promotion because of what was
18 said on the blog?

19 MR. GOODSTADT: Objection.

20 A. It's my belief that I wasn't
21 given the promotion because the incidences
22 that happened from Ocean Beach and the
23 negative references.

24 Q. It's your belief based upon what
25 the guys in the locker room said that was

1 E. Carter

2 told to their bosses?

3 MR. GOODSTADT: Objection.

4 Q. Is that what is the basis of your
5 belief?

6 MR. GOODSTADT: Objection.

7 A. Also the phone call to Greg
8 DeCanio.

9 Q. Okay. Well, let's talk about
10 that. The phone call as to what was said to
11 Mr. -- the phone call to Mr. DeCantio is
12 reflected, to your knowledge, in the Hesse
13 email that I showed you, right?

14 A. Not fully, but yes.

15 Q. Well, was there anything else
16 that Hesse said to DeCantio that wasn't said
17 in that email by Hesse?

18 A. I don't believe I could speculate
19 on that. That would be either Hesse or
20 DeCanio would have to answer that.

21 Q. Oh, so you don't -- other than
22 what was said in the email, you don't know
23 what was said between Hesse and DeCantio in
24 that phone call, do you?

25 A. Only what Hesse told me and Greg

1 E. Carter

2 told me.

3 Q. Well, did Hesse tell you that
4 anything -- anything other than what was in
5 that email?

6 A. Hesse has lied to me in the past
7 and obviously --

8 MR. CONNOLLY: Objection.

9 MO MR. NOVIKOFF: Motion to
10 strike.

11 Q. Sir, did Hesse, in the phone call
12 that you're referring to, advise you of
13 anything other than what he said in the
14 email to you concerning his conversation
15 with DeCantio?

16 A. Yes.

17 MR. GOODSTADT: Objection. He
18 already testified to stuff he said.

19 Q. What did he say?

20 A. I testified about the twins being
21 born. I don't believe that was in the
22 email.

23 Q. Okay.

24 A. Can I look back at the email?

25 Q. Sure. Now my question, though,

1 E. Carter

2 is, you said that there was a phone call
3 between Hesse and DeCantio. The email
4 reflects Hesse's phone call to DeCantio,
5 correct?

6 A. It's telling me that he called
7 DeCanio, yes.

8 Q. And he's telling you what he said
9 to DeCantio. Did Hesse tell you that he
10 told DeCantio anything else, other than what
11 he said in that email?

12 MR. GOODSTADT: Objection. He
13 just testified to something that he
14 told him.

15 Q. You can answer.

16 A. No.

17 Q. Okay. Did DeCantio tell you that
18 Hesse said anything else concerning your
19 job, other than what Hesse told you in the
20 email?

21 A. No.

22 Q. Okay. You then state that a
23 person in the Town of Islip personnel office
24 asked you if you were going to jail?

25 A. I was going to be arrested, yes.

1 E. Carter

2 Q. Okay. Who was that person?

3 A. It was a woman. I don't know her
4 name.

5 Q. And she said this when you were
6 dropping off papers?

7 A. I was walking through the
8 corridor, it's a long corridor approximately
9 half the size of this, into the personnel
10 office (indicating).

11 Q. And when did this person make
12 this statement?

13 A. That would have been after
14 approximately mid April.

15 Q. Of 2006?

16 A. 2006.

17 Q. And it's your belief that based,
18 in part, upon that comment by the personnel
19 office, that Mr. Hesse's negative references
20 cost you a promotion?

21 MR. GOODSTADT: Objection.

22 A. Again, the defamatory statements,
23 the blog, all as a whole cost me my
24 promotion, yes.

25 Q. No. But I'm now referring to

1 E. Carter

2 this person that you don't know the name of
3 in the personnel office making this comment
4 about you going to jail. Did you -- is it
5 your testimony that you believe that that
6 comment by this unnamed person contributed
7 to you not getting promoted?

8 A. No. It was more defamatory.

9 Q. Okay. And would you agree with
10 me -- well, prior to this comment, did you
11 have any evidence that Mr. Hesse made any
12 defamatory comment to you on the blog?

13 A. No.

14 Q. And, to date, you still have --
15 you can point to no specific blog entry that
16 identifies George Hesse as the author,
17 correct?

18 A. Correct.

19 Q. And you certainly can't point to
20 any specific blog entry prior to the end of
21 April 2006 that specifically identifies
22 George Hesse as the author, correct?

23 A. Correct.

24 Q. Let's look at this conversation
25 you had with Zelda. Zelda is who again or

1 E. Carter

2 was who again?

3 A. Personnel director for the Town
4 of Islip.

5 Q. And when did you have a meeting
6 with Zelda?

7 A. That was approximately May of
8 2006.

9 Q. Is Zelda still the personnel
10 director?

11 A. She's retired at this time.

12 Q. When did she retire?

13 A. Recently. I believe it was
14 January or February of '07. Oh, I'm sorry,
15 we're in '08? '08.

16 Q. Now let's go back to Carter-7 I
17 believe it is. Schneider is the personnel
18 director for the County of Suffolk?

19 A. Yes.

20 Q. And Zelda was the personnel
21 director for the Town of Islip, is that
22 your -- is that what your testimony is?

23 A. No. Mr. Schneider is the
24 personnel director for the Department of
25 Civil Service. I don't know if there's a

1 E. Carter

2 separate personnel director for the County
3 of Suffolk.

4 Q. Fine. Now what did Zelda
5 specifically say to you again?

6 A. When I was -- I was speaking, I
7 stopped in. I was dropping some paperwork
8 off. I was talking to her. And I explained
9 to her about the test scores and stuff, and
10 I explained to her about the blog and what
11 was being said around the town, and you
12 know, she said, "Ed, I've known you 24
13 years, several years. I don't believe any
14 of it. But that you should get a letter to
15 basically say why you were let go from Ocean
16 Beach because they have to let you know." I
17 said, "Well, Zelda, right now they're not
18 letting me know. They're just leaving me
19 blank with directives they hung up." And I
20 didn't even tell her about the wire part.
21 And that -- she said, "Get a letter and hold
22 on to it."

23 Q. And when did this conversation
24 take place?

25 A. May of 2006.

1 E. Carter

2 Q. All right. And Zelda didn't tell
3 you that she was aware of the blog, did she?

4 A. No.

5 Q. You initiated that conversation,
6 right?

7 A. At that time, yes.

8 Q. Right. And Zelda didn't advise
9 you that she had heard what was being said
10 around Islip -- around the department, did
11 she?

12 A. No.

13 Q. You told her?

14 A. Yes.

15 Q. You initiated that conversation?

16 A. Yes.

17 Q. And you had been told at that
18 point as to why you were being fired, right?
19 Mr. Hesse said it was directives, right?

20 MR. GOODSTADT: Objection.

21 A. No.

22 Q. No?

23 A. That was afterwards.

24 Q. Didn't Mr. Hesse tell you that in
25 April of 2006, in April 2, 2006, that you

1 E. Carter

2 were being fired for directives?

3 A. Yes.

4 Q. Now my question to you is whether
5 or not that was truthful or not, why did you
6 find it -- why were you incapable of
7 advising Islip that that's what Mr. Hesse
8 said?

9 MR. GOODSTADT: Objection.

10 A. I did tell Mr. Raber on a
11 Wednesday after I was let go, it was the
12 first day I saw him, that I was let go for
13 directives by the Beach that were posted
14 over the fall. He asked what they were and
15 I told him, I explained to him exactly what
16 they were, and he says, "Oh, okay."

17 Q. So Mr. Hesse had told you, at
18 least at that time, why you were being
19 fired?

20 A. No. He just said directives. He
21 had to let someone go for directives he
22 posted on the wall.

23 Q. He told you you were being let go
24 because of directives, according to your
25 testimony, correct?

1 E. Carter

2 A. He wouldn't tell me what
3 directive.

4 Q. But he said directives, right?
5 He gave you a reason, correct?

6 A. I don't believe that was a full
7 reason.

8 Q. But he gave you a reason why you
9 were being fired, correct? He said
10 directives, correct?

11 A. That he had posted on the wall,
12 yes.

13 Q. Right. Now you didn't believe
14 him, right?

15 A. No.

16 Q. Right. But at least he told you
17 what the reason was, you would agree with
18 me? Whether or not it was truthful or not,
19 he had given you a reason?

20 A. He said directives, but I wanted
21 to know what directives specifically. I can
22 tell you I fired you for directives. Why
23 did I fire you?

24 Q. Okay. But he had told you his
25 reasoning for firing you was directives,

1 E. Carter

2 right?

3 A. Yes.

4 Q. So why did -- why couldn't you
5 just have told the Town of Islip "I was
6 fired for directives"?

7 MR. GOODSTADT: Objection.

8 A. Because it was false. I wasn't
9 fired. I didn't feel I was fired for
10 directives. I didn't do anything wrong.

11 Q. Oh, so the issue really wasn't
12 whether or not you could tell the Town of
13 Islip or any other employer as to why your
14 directive -- you didn't believe that was the
15 legitimate reason, is that your testimony?

16 MR. GOODSTADT: Objection.

17 A. No.

18 Q. No. Did you ever get the letter
19 that this woman Zelda said you should be
20 getting?

21 A. No.

22 Q. Did you ever ask Mr. Hesse for
23 the letter?

24 A. Yes.

25 Q. When?

1 E. Carter

2 A. May 15.

3 Q. And did he send you the email?

4 A. That was prior.

5 Q. Right. And in the email,

6 Mr. Hesse states why you were let go,

7 correct?

8 MR. GOODSTADT: Objection.

9 A. That's a different reason from
10 the original reason.

11 Q. I understand that, but Mr. Hesse
12 advised you in the email as to why he told
13 this Greg DeCantio you were being fired,
14 right?

15 A. Yes.

16 Q. That's a reason, you would agree
17 with me? May not be a truthful reason, but
18 it was a reason, right?

19 A. Yes.

20 Q. You could have sent that email on
21 to anyone at the Town of Islip, correct?

22 MR. GOODSTADT: Objection.

23 A. I wouldn't have because it was
24 false. It wasn't true.

25 Q. Zelda asked you to get a letter

1 E. Carter

2 explaining why you were fired, right?

3 A. Yes.

4 Q. You believed that there was no
5 legitimate reason why you were fired,
6 correct?

7 A. Yes.

8 Q. So what letter would you ever
9 have gotten from Ocean Beach that you would
10 have sent on to your superiors if you were
11 waiting for the real reason why you were
12 being fired?

13 MR. GOODSTADT: Objection.

14 A. One similar -- one similar to an
15 internal correspondence. An official
16 letter. Not an email.

17 Q. Oh, so the email wasn't an
18 official letter, is that your testimony?

19 A. It's not even a letter, it's an
20 email.

21 Q. So you don't believe the email
22 reflected an official documentation that you
23 could send on to anybody concerning why you
24 were fired?

25 MR. GOODSTADT: Objection.

1 E. Carter

2 A. Correct.

3 Q. Okay. Did you ever inquire with
4 Chief Paridiso?

5 A. No.

6 Q. Did you ever ask Chief Paridiso
7 for a letter?

8 A. I spoke to Chief Paridiso and I
9 told him why I was let -- why George told me
10 he let me go, and I said he said he let me
11 go for sleeping, and Ed Paridiso laughed.
12 He said, "The guy that does the most ADA
13 cases in the winter hours and all med evacs,
14 the most house checks found open, the most
15 village property found open," he says, "When
16 did you find time to sleep?"

17 MO MR. NOVIKOFF: Motion to
18 strike.

19 Q. Did you ever ask Mr. Paridiso for
20 a letter explaining why you were fired?

21 A. No.

22 Q. He was the chief at the time,
23 right?

24 A. Yes.

25 Q. He could have written a letter on

1 E. Carter

2 Ocean Beach -- to your knowledge, he could
3 have written a letter on Ocean Beach -- on
4 an Ocean Beach document concerning why you
5 were fired, correct?

6 MR. GOODSTADT: Objection.

7 A. I believe at that point George
8 Hesse was the chief of Ocean Beach.

9 Q. I thought you just said that
10 Paridiso was the chief?

11 A. He was out on disability.

12 Q. Oh, okay. Did you ever inquire
13 with the mayor at the time as -- well, did
14 you ever ask the mayor for a letter
15 indicating why you were terminated?

16 A. No.

17 Q. Did you ever ask a trustee member
18 for a letter?

19 A. No.

20 Q. Did you ever -- did your lawyer,
21 to your knowledge, ever send a letter to
22 Ocean Beach saying "listen, I need a letter
23 on an official Ocean Beach stationary
24 explaining why my client was fired"?

25 MR. GOODSTADT: Objection.

1 E. Carter

2 A. No.

3 Q. What efforts did you take, other
4 than asking George Hesse to get a letter on
5 Ocean Beach stationary, regarding why you
6 were fired?

7 A. I couldn't. George Hesse and Joe
8 Loeffler had a very good relationship, very
9 personal, and I knew I would go stonewalled
10 right into a wall.

11 MO MR. NOVIKOFF: Motion to
12 strike.

13 Q. What efforts, other than asking
14 George Hesse, did you undertake to get a
15 letter on Ocean Beach stationary concerning
16 the reason why you say you were fired?

17 A. None.

18 Q. Did you ever follow up with Zelda
19 as to why you didn't get a letter?

20 A. I told her I never received
21 anything.

22 Q. When did you tell her that?

23 A. That was the next time I saw her,
24 which could have been September, October.

25 Q. And what did she say, if

1 E. Carter

2 anything?

3 A. She just shrugged. You know, she
4 didn't know what -- you know, she just
5 looked at me. She says, "You know, what are
6 you going to do."

7 Q. Right. She didn't have any
8 authority to promote you, did she?

9 A. No.

10 Q. To your knowledge, did she talk
11 to any person in authority with regard to
12 your promotion?

13 A. No.

14 Q. Let's mark -- well, no. Let's
15 continue 109. You write in the first
16 sentence "unfounded negative references," do
17 you see that?

18 A. 109?

19 Q. Yes. First sentence, you end it
20 by saying "due to unfounded negative
21 references from Hesse"?

22 A. Yes.

23 Q. Well, we know of one which is the
24 conversation that you claim to have taken
25 place between Hesse and DeCantio, correct?

1 E. Carter

2 A. Yes.

3 Q. What was the other negative
4 reference that you're referring to in the
5 first sentence of 109 that went to the Town
6 of Islip from Hesse?

7 MR. GOODSTADT: Objection.

8 A. None.

9 Q. Okay. So when you say "negative
10 references," you really mean one negative
11 reference?

12 MR. GOODSTADT: Objection. For
13 the record, the sentence refers to
14 Carter and Snyder.

15 Q. Okay. Well, then my question,
16 when you're referring to yourself in the
17 first sentence concerning negative
18 references from Hesse, it's really only one
19 negative reference that you can point to?

20 A. In reference to me, yes.

21 Q. Right. Okay. Let's look at the
22 next sentence. "Carter was also denied the
23 ability to apply for positions with Suffolk
24 County because he could not obtain
25 references from the OBPD or provide a clear

1 E. Carter

2 explanation for his termination." Who
3 denied you the ability to apply for
4 positions?

5 A. George Hesse.

6 Q. How did he deny you the ability
7 to apply for positions?

8 A. I told him that I spoke to the
9 county recruiter, that I'd have to go
10 through a background and a polygraph, and
11 that I needed a reason, directives or
12 whatever it was why I was let go, and he
13 said with his civil service knowledge, I can
14 walk on any job and he'd get back to me, and
15 he knew at that point that by giving me --
16 back to the polygraph questions, there was
17 no way I'd pass a polygraph.

18 MO MR. NOVIKOFF: Motion to
19 strike.

20 Q. But he had already provided you
21 in that May 15 email a reason, right?

22 A. A separate reason from the
23 previous ones.

24 Q. So what did you expect him to say
25 after May 15 with regard to why you were

1 E. Carter

2 fired?

3 A. I really -- I felt he might have
4 said budgetary cuts like he told the other
5 guys or something else. I don't know.

6 Q. Did you believe that the other
7 guys were fired for budgetary cuts?

8 A. Originally, yes. Until we saw
9 the budget was inflated.

10 Q. When did you see when the budget
11 was inflated?

12 A. When -- I don't have the exact
13 date, but it was in the paper.

14 Q. So if he had said budgetary cuts
15 in May of 2006, you would have felt good
16 enough to then take a polygraph?

17 MR. GOODSTADT: Objection.

18 A. I would have felt more
19 comfortable.

20 Q. Even though he had, according to
21 you, lied to you the first time about
22 directives, and even though he had lied to
23 you the second time about you falling
24 asleep, it's your testimony that had he said
25 to you the third time that you were fired

1 E. Carter

2 because of budgetary reasons, you would have
3 felt more comfortable taking a polygraph?

4 MR. GOODSTADT: Objection.

5 Q. Is that your testimony?

6 A. My testimony is I would have felt
7 more comfortable. I would have had more
8 belief that I could have took the polygraph.

9 Q. But according to you, he had lied
10 to you on two occasions, right? Prior to
11 May 16, 2006, he had lied to you on two
12 occasions as to why you were fired, right?
13 He lied to you on April 2, right?

14 A. Yes.

15 Q. When he said directives?

16 A. Yes.

17 Q. And according to you, he lied to
18 you on May 15 when he said you were
19 sleeping, right?

20 A. Yes.

21 Q. So what would have made you
22 believe that after May 15, if Mr. Hesse had
23 said you were fired for budgetary reasons,
24 that that wouldn't have been a lie as well?

25 A. Because I would have went ahead

1 E. Carter

2 and put the application, not knowing about
3 the budgetary things, and I would have set
4 up the polygraph.

5 Q. So if he had said that you were
6 fired for budgetary reasons after May 15,
7 2006, you would have set up the polygraph
8 test?

9 A. I would have applied for the
10 position and had it set up, yes, through
11 civil service.

12 Q. Even though he had lied to you on
13 two prior occasions?

14 MR. GOODSTADT: Objection.

15 Asked and answered.

16 Q. Is that correct? I just want to
17 make sure we understand each other. Even
18 though he had lied to you on two other
19 occasions, had he given you the budgetary
20 reason the third time, you would have
21 scheduled the polygraph test?

22 A. The third time would have been
23 prior to the sleeping part.

24 Q. Right.

25 A. The sleeping part wouldn't have

1 E. Carter

2 been in there.

3 Q. No? Really? The sleeping part
4 was the second time he lied to you, right?
5 He lied to you on April 2, 2006, according
6 to your testimony, right?

7 A. Yes.

8 Q. And then the next time he gave
9 you a reason, it was May 15 when he said you
10 were sleeping?

11 A. Yes.

12 Q. And then you spoke to Zelda after
13 that, right?

14 A. Yes.

15 Q. And you had --

16 A. Well, in between -- I'm sorry.

17 In between, in May I told you 2006 I spoke
18 to her.

19 Q. Okay. But the other job that you
20 were applying for, that you wanted to apply
21 for took place after May 15, 2007 -- 2006,
22 right?

23 A. The park police job, no. It was
24 prior to that.

25 Q. Okay. Park police. That's the

1 E. Carter

2 park ranger three, right?

3 A. No. Suffolk County park police.

4 Originally it was all at the same test.

5 Q. When did you apply for the park
6 ranger three -- I mean the Suffolk County
7 park police job?

8 A. I made the initial phone call the
9 beginning of May to speak to the recruiter,
10 and that's when I contacted Hesse.

11 Q. Okay. So if I understand your
12 testimony correctly, he lied to you on April
13 2, but had he given you the reason between
14 the 2nd and May 15 that you were fired
15 because of budgetary reasons, you would have
16 felt comfortable then setting up the
17 polygraph?

18 MR. GOODSTADT: Objection.

19 Q. Is that your testimony now? I'm
20 just trying to figure out what your
21 testimony is.

22 A. I would have known -- I would
23 have felt more better. I couldn't prove at
24 that point if he was lying or not to me.
25 When he brought up sleeping, it's an

1 E. Carter

2 outright lie. Where the budgetary thing, I
3 couldn't, you know, disprove or not at that
4 time.

5 Q. Okay. You write -- and I repeat
6 what you allege in 109 -- "Carter was also
7 denied the ability to apply for positions."
8 Well, what positions were you going to apply
9 for that you couldn't?

10 A. That would have been the Suffolk
11 County park police.

12 Q. Okay.

13 A. And the park ranger three
14 position.

15 Q. Well, park ranger three was Town
16 of Islip, right?

17 A. Yes.

18 Q. So -- and this refers to with
19 Suffolk County, right?

20 A. Yes.

21 Q. So when you say "with Suffolk
22 County," you're talking about applying for a
23 job with Suffolk County as opposed to Town
24 of Islip, right?

25 A. Yes.

1 E. Carter

2 Q. So when you're saying "positions
3 with Suffolk County," you really mean one
4 position, right?

5 A. Yes.

6 Q. That was the park police
7 position, right?

8 A. Yes.

9 Q. Well, let's talk about that.
10 When did you first make the application for
11 that position?

12 A. I never filled the application
13 out. I made the phone call and spoke to the
14 recruiter. I explained to him that I was
15 working at Ocean Beach as a police officer.

16 Q. So you made the application while
17 you were still employed with Ocean Beach?

18 A. No.

19 Q. No. So what did you explain
20 to --

21 A. That I was a police officer for
22 Ocean Beach. I was let go on April 2006,
23 and he asked me why, and I told him for
24 directives that were posted. I said, "I
25 really don't know." And he says, "Well,

1 E. Carter

2 find out. Don't embarrass yourself, because
3 we're going to find out." And I asked him,
4 you know, as far as what type of testing,
5 whatever I'd have to go through, and he
6 asked me if I had a background with Suffolk
7 County Police Department, and I said, "No.
8 The Ocean Beach Police Department had done
9 it back in '91, 1991." And he says, "I'm
10 not sure. I'm going to have to check with
11 my chief, but you may have to do the
12 background test and take a polygraph."

13 Q. Okay. And then you abandoned
14 that effort because you had to take a
15 polygraph?

16 MR. GOODSTADT: Objection.

17 A. No. I tried to get -- I told
18 George about that, and after that point,
19 yes, I abandoned the position.

20 Q. Well, what did you ask Mr. Hesse
21 before you abandoned the application?

22 A. I explained to him what was going
23 on and I needed a reason why I was let go,
24 and at the end of the conversation, he said,
25 "I'll get back to you."

1 E. Carter

2 Q. And what was Mr. Hesse -- oh,
3 Mr. Hesse said "I'll get back to you"?

4 A. Yes.

5 Q. And he never did?

6 A. May 15.

7 Q. Okay. He gave you a reason, but
8 you didn't believe it, right?

9 A. No.

10 Q. Okay. So you felt because you
11 didn't believe the reason, you couldn't take
12 a polygraph for the Suffolk County park
13 police job?

14 A. Correct.

15 Q. And did you ever advise Suffolk
16 County park police that you were abandoning
17 your pursuit of their job?

18 A. I never called the recruiter
19 back.

20 Q. Did you ever send a letter to
21 anyone at Ocean Beach indicating that you
22 need a letter so that you can pursue this
23 job with Suffolk County?

24 A. No.

25 Q. Did you ever write a letter or

1 E. Carter

2 authorize someone to write a letter to Ocean
3 Beach indicating that in order for you to
4 pursue a law enforcement job, you need to
5 get a letter from them as to why you were
6 fired?

7 A. No.

8 Q. Well, you filed a Notice of Claim
9 in June -- well, the Notice of Claim is
10 dated June 2006, right?

11 A. June 30, 2006. Yes, sir.

12 Q. Would it be fair to say that by
13 virtue of your filing the Notice of Claim,
14 you were advising Ocean Beach that you did
15 not believe that there was any legitimate
16 reason for why you say you were fired on
17 April 2?

18 A. Yes.

19 Q. Okay. So then if you believed as
20 of June 30, 2006 that there was no
21 legitimate reason for why you were fired on
22 April 2, 2006, why did you believe that you
23 couldn't go forward with polygraph tests
24 after that date?

25 A. Because, again, I spoke -- I said

1 E. Carter

2 it earlier, I don't think I'd be able to
3 pass it with just bringing up the incident
4 with the Beach, the lies, and when it got to
5 those questions why you were let go, I would
6 have probably most likely came up -- I
7 forget the exact wording they use, but it's
8 not exactly calling you a liar, but it's
9 un -- not undecisive. I don't know the
10 exact words they use on a polygraph.

11 Q. But you testified this morning
12 that at least to your understanding,
13 polygraph tests are yes and no, right?

14 A. Specifically, and then they go
15 with a group. Were you ever fired for a
16 position. My answer would be yes.

17 Q. Right. And they wouldn't ask
18 you, to your knowledge, on a polygraph test
19 why you were fired, because that's not a yes
20 or no question, right?

21 A. That would have been in a --

22 MR. GOODSTADT: Objection.

23 A. -- pre-polygraph part of the
24 questionnaire.

25 Q. When you say "pre-polygraph,"